NINTH JUDICIAL CIRCUIT HISTORICAL SOCIETY
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WESTERN LEGAL HISTORY ORAL HISTORY PROGRAM

An Oral History of

LOUIS M. BROWN

An Interview Conducted by
Carole Hicke
1991

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Interview with Louis M. Brown
Date of interview: May 31, 1991
Interviewer: Carole Hicke

Begin Tape 1, Side A

Q. Let's start with when and where you were born.

A. Los Angeles, California. September 5, 1909.

Q. So you're a native Californian?

A. Right.

Q. And you grew up here?

A. Yes ma'am! Do you want me to answer these questions as though I were a witness on the witness stand or do you want me to answer these questions with the requirement of tell me the truth, the whole truth, and nothing but the truth? You know, that's the funny thing. I've been a witness many times in lawsuits and thought about the requirement of telling the whole truth. The admonition should be tell me the truth, and the whole truth, and nothing but the truth with respect precisely to the questions I precisely ask you.

Q. Yes, because they don't want you to go on and tell the rest of the truth do they?

A. That's right. Do you want me to be like an expert or do you want me to be like a human being?

Q. I want you to be like a human being, and I want you to go on with all the truth, as much as you like to say. Tell me a little bit about your childhood.

A. Sure. I lived on a street that was called Clanton Street, now called 14th Place, between Central Avenue and San Pedro

Street in Los Angeles. It was then a blighted neighborhood and still is, although I haven't seen it in a few years. That house that I first lived in is no longer there. I went to a school called San Pedro Grammar School. It was, as I recall, on San Pedro and Washington Boulevard. That was the grammar school. I don't know if it is still there or not. At that time it was a mixed neighborhood racially. There were Anglos, there were Jews like my own family. There were Chicanos, there were Blacks--it was quite a mixed neighborhood then. I expect it still is to the extent that it is residential. It also had some industrial stuff. There was a laundry right across the street. Down the block was a machine shop. We stayed there until was about eight or nine years old. We then moved to an address which is 308 South Hobart Boulevard in Los Angeles. That's near Third and Western Avenue. A streetcar used to end at Western Avenue. This was when they had streetcars in Los Angeles. They were narrow gauge, yellow streetcars. I went to a school called Cahuenga starting at about the third grade or something like that, and that went to the sixth grade. The school is still there. I then went to Virgil Junior High School, which is on Vermont and First Street. It's still there. I guess I graduated from there in 1923 and then went to Los Angeles High School, which is on Olympic Boulevard, which is where it still is but the building was knocked down and a new building put in its place because of earthquake some years ago now. I

graduated from L.A. High in 1926. We still lived on Hobard Boulevard but about that time we moved to another location, or our family did, to an address at 683 South June Street in Los Angeles. That's at June and Wilshire Boulevard. June Street is a couple of blocks east of Highland. It's about six blocks east of La Brea in an area called Hancock Park. I was in that house with the family and went through the University of Southern California and graduated from USC in 1930. The family still lived there and still lived in that house with my sister and a brother, both younger. After graduation (major in philosophy, minor in both sociology and political science) I was admitted to Harvard Law School. That was my first away from home. I entered Harvard Law School in the fall of 1930. I graduated there in 1933. I came home in the summertime, by train of course, by train.

Q. Some trip.

A. Yes. I don't know that there were airplanes, but we went by train. One year I went by train to New Orleans and then by boat up to Massachusetts as a kind of extra trip. Mostly I sat up in train rides; I didn't have a berth. Those were the days of the depression. A couple of depression things that you've probably heard other people tell you about are true. The idea of selling apples on the corner was really so.

Q. You really saw them?

A. Oh yes. And another kind of characteristic was that if you did have an automobile and stopped at a corner because of

traffic requirements--not necessarily signals, signals came in later, these were the traffic cops that stopped you--there would often be somebody with a cloth in his hand and a little water to clean your windshield and put his hand out for a tip. Actually it was a lot more than that, but those are just little tidbits. After law school and admission to the bar--I was admitted in December 1933--I took the September 1933 bar examination.

Q. In California?

A. In California that's correct, and was admitted in December. You hear a lot about the small percentage that pass the bar exam. In my autobiography I report about a case that happened to involve the 1933 bar examination, and I think that something like 31 percent passed, or 33 percent on the examination. And now we pass more than 50 percent and people say that's low. But anyway, it was much lower than that. That's sort of forgotten about somehow or other. I practiced law--I had to look for a job.

Q. Yes I was going to ask what the job situation was here.

A. It was pretty difficult, although as a person I didn't realize how difficult it was because that's the way things were then. You had to use some shoe leather to find yourself a job.

Q. Some people were working for nothing just to get a chance to start.

A. Sure, sure, some people did. I was fortunate. I got a job with a lawyer, I think through the help of my father, but I'm

not sure about that. I first had a job with a single lawyer here in town between the time I took the bar until I knew I passed it was a few months. I had a job with a lawyer where I was paid nothing except I got paid for serving papers, the customary, I don't know, three, four, five dollars or whatever it was, and you served papers. He did a lot of unlawful detainer work and he represented landlords. I was serving tenants with unlawful detainer papers and I'd get paid for the service. I'd get paid other small amounts for doing things like that.

Q. What was his name?

A. His name was Dell Schweitzer. His son became a judge later. I know his son, he became a judge in town. He was a pretty well known lawyer, Schweitzer was. Actually he was a lawyer for Pomona College for example. I believe I'm correct. He had an office in downtown Los Angeles. He was an individual practitioner, although there were other lawyers in the office. I had a little cubbyhole, someplace where I sat and I guess read most of the day. He was a very nice man. After I passed the bar I looked for a job. I was offered a job, as nearly as offers are made, with the City Attorney's office, and I turned it down. That's not in my autobiography.

Q. Why was that?

A. I had the feeling then that litigation was not my cup of tea. Litigation was not what I seemed to want. I couldn't articulate why it was that I didn't want it. I articulate it

now, but I don't think I articulated it then. But I had the feeling that that was not for me, that was not what I wanted to do. In the City Attorney's office I would have been trying lawsuits, mostly in the criminal field, and getting some experience in a very good place to be actually for that kind of experience. Even though times were tough and one thing or another, I turned it down. I'm not sure it was a hundred percent offer, but I didn't let it become that. I did get a job with a lawyer whose name was Burnett Wolfson, nicknamed Bernie. He was basically an individual practitioner and had some practice, a very warm-hearted man. He only had one eye that he used, he was blind in the other eye. He was really helpful in many, many ways. I was with him for two years. I started in downtown Los Angeles. I did mostly court work but not entirely court work. By court work I mean pleadings and motions. I was in court two or three times a week, maybe not that often but often enough. I tried a couple of very small cases. I recall one collection kind of case, one automobile injury kind of a case, very small cases, the few I tried myself. I had my first experience at the office, a client who said, "I'm about to sign this lease, is it okay if I sign it?" You may find that in my autobiography. That was a novel experience with me. Law school never taught me about that.

Q. You mean the fact that he would ask your advice?

A. About signing a document, about signing <u>any</u> document. Law school never touched that role of a lawyer.

Q. One of the preventive or advising--

A. Yes. It touched the role of the lawyer in arguing a case in the appellate court and slightly about trying a lawsuit in the courtroom but never about telling a client, "Yes, sign that piece of paper." or "Don't sign it." I was sort of taken aback by that request of a client. A perfectly reasonable request, but I had no experience with that, no experience with even feeling that that was the role of the lawyer.

Q. Is that still the case in law school, that they don't teach that?

A. Law school is a place where you study what is commonly called cases. It's in my autobiography, but I'll tell you about that. A fellow by the name of Langdell, have you heard of him? Christopher Columbus Langdell somewhere around the later part of the 19th century--around about 1870, something like that--was a professor at Harvard Law School. Prior to that time law school teaching had been textbook-type teaching. Texts were written. A typical one in the olden days was Blackstone's Commentaries. You'd teach from that. Along came Langdell, who had some experience in a law office in arguing cases in the appellate court as I understand it and then went to teaching and got the notion that the written opinions of the appellate courts--the high court of Massachusetts is called the Supreme Judicial Court of Massachusetts--or the United States Supreme Court of the

California Supreme Court, those opinions would make very interesting and good learning materials, teaching materials. I'm sure I'm fictionalizing some, but he got the idea, "Let's use those materials for teaching. I will put together a string of opinions in contracts, or whatever, and we will teach from that." And he did that. And so I went back and read the history of legal education. To some degree there was no common agreement that case opinions were a good idea. There was considerable discussion about it. Some people accepted it, a lot of people didn't accept it, but be that as it may, it grew to become, and had become, the dominant set of materials and the dominant teaching materials in law school education.

Now those were appellate court materials. They were called "cases", and when the books were put together there were cases on contracts and the like. In my opinion they are not cases, they are opinions, a string of opinions. The whole case started long before the opinion ever became an opinion. The opinion, as a matter of fact, is close to the end result of a case. Cases do report the facts as found in the trial court as part of the case that's true, there are lots of things about that. One thing that I can tell you quickly is that the whole area of the lawyer/client relationship is excluded from and not part of the case. That's not an issue. It's not an issue what the lawyer and client talked about or when they talked about it or anything about that.

What a case is is an appeal to the appellate court as to whether or not the judgment in the lower court is legally sound. That we were trained in. That's commonly called legal reasoning. It says nothing to us about how the client ever came to a law office nor why, from a client's point of view really, now how to deal with clients now will they come to lawyers for anything other than to argue a case to the appellate court. You get the idea they'd come to a lawyer for the trial of the lawsuit. We never had anything about looking at a contract and saying as to whether it's a good contract or not. We could in terms of whether or not it violated some provision of the law yes, but not whether it had anything to do with anything else or not what other provisions there ought to be in this agreement, nor was there anything about how to negotiate with respect to this document nor anything like that, nothing like that. It was so remote from that it's amazing. I count one of my difficulties in law school education as precisely that. My background in terms of the world was the background of my father's business, which I didn't tell you about, but I worked at--

Q. What was the business?

A. The business was a sheet metal subcontracting business. It expanded to other aspects of the metal business. I worked at that business when I was in high school; I worked in that business when I was in college; I worked in that business in the summertime. We talked business at home constantly. That

was the only subject that my father talked about: his business and how difficult it was and what terrible employees he had, and he decided that if they were any better they wouldn't work for him.

He had an attitude about lawyers. He knew a lawyer in town whose name was Glenn Behymer. I should tell you I worked for him one summer for six weeks. He was a very well known man. He was an expert in mechanics lien law. A very well known family too. His father was the impresario here in town. Anyway, my father always prided himself that he never went to court. He had a way of handling his affairs so that he really was shrewd and avoided trouble to a great extent. I learned later that troubles that some of my clients got into he would have not gotten into those troubles because of the way in which he handled things. I assumed that law school education would tell me something about somebody like my father. It never did.

Q. Can I throw out a question here? I've read that it was only in the late 19th century that lawyers became business counselors. Before that it had been mostly what you were talking about. Could it be that law schools were just too far behind in picking up on this new--

A. I think partly, but only partly. It's correct that the histories that I've read indicate that the lawyer as business counselor was a development in the latter part of the 19th century. That isn't 100 percent true, I don't think, but in

broad sociological terms it is probably true. The other thing about Landell's materials are that they are wonderful to teach with. They are great to teach. It's hard, in that sense, to find competing materials. The more important characteristic, however, has to do with the politics of the educational process. The people who are chosen to teach are chosen to teach by the teachers who teach. You choose to select for your faculty people, if you can, your top students.

Q. Sure.

A. Now you have building upon itself the use of these wonderful materials by people who are trained as students with them and are rarely trained for anything else continuing to tach that way. It's very difficult to break that closely knit environment. I've tried it, and I've done it to some extent personally, probably as effectively as anybody else in the country in terms of legal education. It's an extremely difficult thing to do. What I can tell you about now is, see that poster on my wall?

Q. The top one?

A. Yes. "The society which scorns excellence in plumbing as a humble activity and tolerates shoddiness in philosophy because it is an exalted activity will have neither good plumbing nor good philosophy. Neither its pipes nor its theories will hold water." When I was in law school, and still, you will have professors say, "We're here to teach you

to be a lawyer, not a plumber." It's the exact same language. We're not here to teach you a trade. We're here to teach you to think, to think, not a trade. This is a thinking machine. It's true that the Langdell opinion case method is a wonderful method for thinking, that's true, but it leads one to believe that being a lawyer is a thoughtless process, except to the extent that you deal with appellate cases. That's just dead wrong. A very current illustration of that, a friend of mine just sent me an article. The friend is Walter Weyrauch and the article is called "Legal Counseling as an Intellectual Discipline". That's a novel idea in law school education.

Q. Even today?

A. Pretty novel today. It's less novel today that it was 20 years ago, but it still isn't believed by most of the law professors who teach. It's a little more believed now, a little more. From my personal point of view, I've had a serious influence on legal education to get it to that point.

Q. Can you elaborate on that a little bit? We're getting ahead of ourselves, but since we're on this topic we might as well do it.

A. The Langdell method of teaching is teaching with respect to the appellate court process. That was not my interest in life and never has been. I taught that way. My experience, and the experience of lots of lawyers, is you never see the inside of an appellate court. I saw the inside of an

appellate courtroom in an oral argument for 10 minutes in my lifetime as a lawyer, once, for 10 minutes. I have counseled people, including the time that that client came in and said, "Should I sign that lease?" On and on and on into business transactions and wills and estate planning and contracts and finance and family affairs and all kinds of things that have to do with this very significant lawyer-client relationship. That's what I wanted to bring to law school education, and did.

Q. Did you teach a specific course?

A. Sure, sure. The whole field of preventive law is a field that is a law office field. I'm the originator of the concept of preventive law and the developer of that notion. The decisions that are made in areas of preventive law, as far as lawyers are concerned, are made in the law office. They are not made in the courts. They are made in the law office. If I tell a client, "Sign that piece of paper", chances are the client will; and if I tell the client not to sign that piece of paper, the chances are the client won't. Very, very powerful; very, very authoritative. And indeed I began to believe that when the client signs that piece of paper, the client is stuck with it, and he is. He is truck with it as strongly as any trial court judge, stronger than a trial court judge would. That's what I wanted to bring to law school education. That turned out to be not easy. The most visible thing that I have done in that is a project

called a client counseling competition. Did anybody ever tell you about that?

Q. No, I haven't heard about that.

A. In my teaching I began to teach the lawyer-client consultation as part of my materials that I developed, some of which have been published in regular hard print but a good deal of it just in mimeograph and so forth, but anyway, the lawyer-client consultation. I began to think about how to teach this in law school, and then I began to do some role playing. I had people come in and be clients and students be lawyers. Then I said to myself--you've heard of the moot court competitions, most everybody has. As a student I was involved a little bit in moot court competitions and as a professor, my students were. That took over and every law school has a moot court competition. So I said to myself I want to figure out something, if I can, that will dramatize the counseling process as significantly as the moot court competition has done with the appellate court process. I don't know when I first began to think about trying to do that, but it was probably 30 years ago now that I began to think about that. I taught law school part-time half of my life, even when I was a practicing lawyer. Then I began to get into full-time teaching. I did so precisely because I wanted to dig into the teaching of law. I wanted to affect the teaching of law.

Q. You wanted to make this change then. Is that what you wanted to do?

A. I wanted to influence it, yes. Not exactly change it, but to increase its scope.

Q. Enhance it then?

A. I'm very fond of the Langdellian method of teaching. Anyway, back to the major point. So I wanted to do something about the lawyer-client relationship, the law office, I wanted to do something about the law office. The appellate court argument--the moot court competition--is in the appellate court. I wanted to do something about the law office. Then I began to say there are more decisions made in law offices affecting human conduct than are made by all the trial courts in the land. That's absolutely clear. That's absolutely clear.

Q. But nobody had thought of this before?

A. Well, apparently not. Apparently not. Not this way anyway. I finally hit on it. You hit on these things when you wake up in the morning.

Q. Or the middle of the night.

A. Yes sometimes. Sometime in the middle of some night, and you wake up in the morning and, eureka, I had it. It was to do successive consultations of the same client.

Q. In school you mean or in the law office?

A. In school, role playing. Role playing client, role playing students, do successive consultation with respect to the same situation.

Q. For comparison?

A. Yes. Did you every play duplicate bridge, when you play bridge against other people playing the same hand? Well, it's analogous to that, somewhat. Well, so I did that. I tried it out in my classroom I'd get somebody to role play--

End Tape 1, Side A

Begin Tape 1, Side B.

Q. Okay, we're just role playing here, and I'm the client.

A. You can be the client if you like. You've come to me because you want to buy a house or sell a house or start a business or make a will. Let's say make a will. Let's say that for the moment. I'll write you a profile and tell you about yourself, the kind of person you are supposed to be for this consultation, okay, and your background and what your work is and your family. I'll make a person out of you the best I can within two or three or four pages of profile, narrative profile. You'll come to the law school and I'll tell you who you're going to be. I'm going to have a student act as a lawyer. Student Jim acts as your lawyer. And then when student Jim is through, give him half an hour, and when he's through he'll walk out of the room and Jane will become your lawyer. You're the same person, the same situation, the same profile, and now Jane will be your lawyer and you will just be the client, as naturally a client within that profile as you can be. And then there will be people who will be observing this, and we'll call them judges, and they will judge whether Jim or Jane did the better job of being a lawyer.

Q. And then do you give them criteria to judge by?

A. We're ahead of the game, but you're quite right. One of the fascinating things is that until this competition came along, nobody ever wrote about--maybe they thought about--but they never wrote about the criteria for determining a good or a bad consultation or a mediocre one or what are the evaluations of a consultation. What are the principles? What are anything? Nobody ever touched that, except one man did write a book--his name was Harrop Freeman. He did a book somewhat before--not before I came along but before the competition was developed. Harrop Freeman was a professor at Cornell Law School. I knew him very well. I still do. A wonderful guy. His was the earliest book that dealt with legal interviewing and counseling. That was the first book in the field. It was a little before I began to do much of my writing. He was--well I'm a step ahead of the game, I did this kind of thing in my law school. It worked. Then I wanted to consider whether to do it interscholastically in another law school. A friend of mine was teaching somewhat the same materials up in San Francisco at the University of San Francisco School of Law.

Q. Who was this?

A. Jack Bonnano. He was teaching law there. He and I agreed we would have an interscholastic competition. I drew in some of the faculty people at USC and got permission and reviewed this and so forth. He may have done the same thing at his

school. Anyway, we used two students, by the way, instead of one. We didn't have a Jane and a Jim, we had two students act as the lawyer in every consultation. There was a reason for that, a couple of reasons for that. One reason is that law school experience is always individualistic. There is very little in law school experience which is a cooperative experience. There is a bit, but almost no formalistic cooperative experience. You are graded individually, you compete with everybody else on an individual basis, you never have to work with anybody, you never have to learn to work with anybody or anything. One of the reasons I wanted two people is precisely that. The other reason is to some extent they will help educate each other and learn a little bit how to work together. So I always have two people. And that's stuck. We had our first interscholastic competition in 1969. One of the judges was Harrop Freeman. Another judge was this Walter Weyrauch.

Q. Oh great.

A. They just happened to be in Los Angeles at the same time. The third judge was a lawyer in Los Angeles. I forget his name, but his last name was Lewis. I wrote the profile and got the clients to come. I had a husband and wife as clients. I used husband and wife lawyers that I knew in town, Neil McCarroll and his wife, I think her name was Mary. I don't know if they're still alive or not. And that was the first competition. Jack Bonnano thought this was a great

thing and urged me to make it known even before we had the competitions, so I made it known to a few law schools around here. The end result was that the next year we had five schools in the competition. The year following we had 10 schools in the competition.

Q. Word got around.

A. Potentially, Jack said to me, Jack Bonnano, "I don't have the money to bring my students to Los Angeles." I said, "Okay, I'll handle that." I continued to pay for the travel of students as the competition expanded.

Q. Of all the schools who entered?

A. Oh yes. After the third year when it was 10 schools and I was doing all of the administrative work at my desk, I had a secretary in the law school. By the way, this was in the 1970s when I was full-time on the faculty. One of the things that I did not say in my autobiography, not to embarrass the school, it embarrasses me a little bit but not very much, that the only compensation that I got was enough to pay for a secretary. All the school supplied me with was a room to be in and a room for my secretary. That was a little unusual. I had come from a very busy law practice and I was used to doing an awful lot of work, far mor work than law professors generally did, putting out a great deal of material. Anyway, I was paid nothing, in effect, for my work as a teacher for the 10 years that I was full-time on the faculty. I was not tenured either. Something else I didn't say in my

autobiography was that I was advised not to apply for tenure because if I applied I wouldn't get it, so I never applied and never got on what's called the tenure track. I never cared much, but I should have cared more.

Q. Do you want to say why?

A. Why I didn't care was that I was interested in getting into law school education and using students as a basis for my experimentation for education. I didn't want anything to interfere with that, so I didn't care. Why I should have cared is that unless you are "one of the boys"--

Q. The "old boys network"--

A. You're just not one in the same league, although I felt myself in the same league and I think most of my colleagues did. I'm not sure how many of my colleagues knew what my compensation was anyway. I used to attend faculty meetings and the like until there was a close vote on the faculty one time and one of the faculty members challenged my vote. And he was right, as it turns out, not because I wasn't tenured but because I wasn't even a regular member of the faculty somehow or other. I don't know what it was anyway. I never fought those things. I put my time to other things. I did serve on some committees in the law school, including faculties that other people served on. I did assignments of that sort. I did a lot of other things.

But anyway, back to the competition. In the third year of the competition when there were 10 law schools, I was

doing it all, and that meant being in communication with a lot more than 10 law schools. It meant finding a place for these things to take place, and it meant figuring out how to do the competition in such fashion as to have 10 schools and come up with one winner. I figured that all out and managed that, but I said "I've got to have some help" so I hired a young law person, a law student. I haven't seen him for a long time. He came from Ireland. He couldn't take the bar exam at that time because he was not a citizen. The law was changed. He was a graduate student at the law school. He had done graduate work, not only as a graduate here, he had done graduate work at Harvard Law School. John Hugh Gibson. He came to USC to help out in the library. The law library needed some help then. Then I hired him. He stayed with me for about a year. I assigned him client-counseling competition and other things to help me with. He did fine. We grew to have 24 law schools in the fourth year. Without his help I couldn't have done it. The school offered me no help. The school only offered me a place to be, a telephone, a place to be, stationer, a place for my secretary, a place for this man, who's on my personal payroll. Then I pad for the transportation of the students in addition to that.

Q. Out of your pocket?

A. Yes, sure. As a footnote to that, I have commented about this several times, I didn't have outside funds to do this. I didn't have immediate access to such funds. There is no

way I could have gotten anybody to give me any money. The people who make grants--the granting organizations--don't grant for experiments of this sort. This is a pure experiment. It might not work at all. I would have had to stand on my head to get some money from somebody to do this experimenting with, and it would have taken an enormous amount of my energy to do that. I chose to devote my energy to the project and not the seeking of funds, so I just used my own funds. I had enough. I haven't earned money in 30 years. My wife works, and that's very helpful. I have some money that I earned from practice and some money that I inherited, but I couldn't care less about it. I would have worked for nothing. I'm an expert witness sometimes. I won't do that for nothing, but a lot of other things I do for nothing.

Q. What are you an expert witness in?

A. Lawyer malpractice lawsuits and lawsuits of a similar sort. I have considerable expertise. Back to the competition. After we were 24 schools I decided that I just didn't have the energy or the time to devote to the administration of this project and I wanted somebody else to take over. I think I reported the story in my autobiography about how it came that the American Bar Association took over. I offered the American Bar Association--it was then costing me something in excess of $5,000 not for my assistant's time but for transportation and stuff--and so I said to the American

Bar Association, "Take this over and here is $5,000 a year for the next five years, $25,000. You want to take it over, take it over."

It's an ongoing proposition. It's no longer experimental. There are 24 law schools that are involved in it now. It was not an easy thing to get this switched over to the ABA. They did switch it over, and the first year they switched it over it was pretty badly mishandled. I continued to be involved for the next 10 or 15 years. It grew, and then it's fallen back. It grew to about 120 law schools out of 170 or so law schools in the country. It's back to about 80 or 90 law schools. That's about half the law schools in the country, in addition to which it has become an international competition. The recent international competition was held in England, at which the U.S., Canada, and England participated. About half the law schools in Canada and half the law schools in England are involved. Scotland is joining the international competition. There is some prospect of Australia joining the international competition.

Q. You really created something.

A. Yes. Now that must have had some considerable impetus on the lawyer-client consultation as part of the legal education. Walter Weyrauch mentions it so clearly in his article, but other people do, and you have to. It's had an effect. Now there are, well I'm not the only one, but there are number of

other professors now who have all been teaching counseling and interviewing. There are more than half a dozen textbooks in the field now. I'd say half the law schools in the country have a course sometimes called "counseling", sometimes called "counseling and interviewing", sometimes called "counseling, interviewing, and negotiation". But in that human kind of thing and the kind of, shall I say science or body of knowledge is being developed in connection with what counseling is about. On the business of the judgment of the competition, the committee has developed some guidelines, rules, and principles to govern the judging of the competition. There has been discussion about that. Some people agree with them, some people disagree with them. Students learn about them, however, and try to conduct their consultation in accordance with the development in counseling that I did.

Q. Okay, give me an example about Harvard Law School.

A. Harvard Law School is a dominant producer of audio-visual materials in legal education. The lady in charge is a woman by the name of Ellen Miller. She's not a lawyer, but she's been doing this for several years. The techniques, one of the methodologies, is called "interactive video". Interactive video, when Ellen Miller showed it to me and my wife at the same time about three years ago, I could show it to you here if you had the time.

What you see on the screen--you see two screens, two video screens like I have in my office now. The screen on

the right is what I call the human screen where you see a scene at the courtroom: a judge, a witness in the witness box, and a lawyer examining the witness. The purpose of this exercise is to teach the students the law of evidence. The other screen is called the computer screen. One screen is the human screen, the other screen will have words on it. You will hear the lawyer examining the witness. I'll give you an easy example. Pretty soon the human screen will stop and the computer screen will say, "Do you have any objections to the question that the lawyer just asked the witness?" It will give you a menu of objections. You say, "Yes." You choose what you want. After you say, the judge will say, "Overruled, the objection is not sound." The computer screen will then explain why the judge did that. It will explain to why the hearsay rule does not apply to that question, what the hearsay rule is, and so forth, And you go on to relevance. You go through a menu until you guess the right one, or if you guess the right one first you go on with the program.

There are a number of other what I call tricks or devices or methods of stopping the exercise and putting you to the task of being a lawyer with respect to the activity, and they tell you something about the law of evidence as you go along. You can do that in greater depth by using what is called hypertext. You can go back to this and it might give you the hearsay rule straight off and then ask you if you are

interested in the history of the hearsay rule. If you are interested in the history of it and the computer is built that way, it will go back to the history of it. I put a question to Ellen Miller: "Ellen, tell me, has anybody ever done a lawyer-client consultation using this methodology?" She said, "No." The long and the short of it is that I have now done it, Harvard has now done it. I have a lawyer-client consultation which is now on the market. A few schools have bought it.

Q. A program?

A. Yes, right here. That screen is the lawyer-client consultation and on this computer screen are methods we have used to stimulate the students to become involved in the situation.

Q. And you developed this?

A. Yes, sure. I talked Harvard into doing it. I funded it to a slight extent. I funded it to the extent of $10,000. I always make contributions to Harvard anyway. I have done so for a number of years on another level that I'd like to tell you about. Anyway, we used some of that money. It's professionally produced. The actors and actresses are professional. Ellen Miller herself was a--not an actress--but she's like a professional producer. She produced it. You have a director and you have to have a sound engineer and others--it's a little motion picture that you make and she runs that whole show. And you have to

integrate the two screens. The human screen is on a big disk. It's a 12 inch CD disk. It's a compact disk but it's a big 12 inch disk. The machine that you operate it on is down here (pointing). The computer is operated with a floppy, and ordinary floppy. They are integrated. The mechanics of how that's done, she has a staff that does that. I don't know the mechanics of it, but she knows the mechanics. I wrote the script. I edited and re-edited to be sure it was right because I was not that familiar with interactive, although I got a little library of interactive and I spent hours watching it here. That's as far out as the lawyer-client consultations has gone in legal education.

Q. One person just sitting down and doing this by his or herself?

A. I have had everything from highly educated people look at it--highly trained. A man by the name of Robert Redmount was here for an hour and a half. Robert Redmount is a lawyer psychologist friend of mine of many, many years. He came a few months ago and sat down at the two screens. It takes about an hour, really, to go through this whole exercise. He spent about an hour and a half only going through half of it, and he flipped. He went back and visited at Harvard to visit with Ellen Miller. I have a little nephew who is 11 years old who looked at this thing and he flipped. It's a toy, in a way, like some of the games that you play on television games.

Q. It's a fun way to learn.

A. A fun way to learn, yes, and you can spend all the time you want to. You just do it on your own.

Q. Yes, you can back up and look at something.

A. Back up and forward and replay and all that kind of stuff.

Q. Have we kind of got the story now of this?

A. We've got the story of the client counseling competition. We've got the story of this new wrinkle in client counseling and the number of law schools throughout the country, and it's possible there are other influences besides that.

Q. Let's back up to the 1930s. After you got out of law school you went into practice--well after you passed the bar exam--what did you do?

A. I worked with Mr. Bernie Wolfson for a couple of years, and then I went into private practice myself and he moved to Hollywood. Then I left Bernie, opened my own office and was financially unsuccessful.

Q. This was 1932?

A. 1935, 1936. All along in life my father wanted me to be in the business with him. He was a powerful sort of a man and a shrewd businessman. I'm the first born.

Q. I wanted to ask you about that.

A. He was born in Russia, came here, and married here. My mother was born in Romania. Married in Los Angeles. A self-made man. He raised himself by the boot straps; that was my father. Hardworking, shrewd but honest, egotistic,

demanding. He had two goals in life, really. One was making money. The other was charity. I think the family was kind of secondary.

End Tape 1, Side B

Begin Tape 2, Side A

Q. Just for the record, you just told me that the name to fill in is Hugh John Gibson. You also reminded me that we do want to talk about law firm management, so just to make sure we get that in, can we do that now and then we'll go back?

A. Sure, what do you want to know about it?

Q. Well, I'm interested in hearing what your ideas are about it and how you developed them. I just read a book recently, I don't know if you've read it--

A. About the law firm that folded up in New York?

Q. No, it's a statistical analysis of how law firms grow.

A. No, I haven't read it.

Q. The idea that was promulgated was that they grow because they hire associates and then they have to have work for them.

A. Yes, I agree with that. That's what happens, or what can happen. Players that get together and they're doing fine once the business develops. Pretty soon John wants to know if he is going to make partner of if he is not going to become a partner, what's going to happen to him and so forth. He also wants to earn more money and should be earning more money after years. That's the way our society works. If there is enough business--if business develops, there is

growth so there is more business, so what happens is maybe he becomes a partner. But in order to have that flow to continue, he has to have as associate, maybe two by this time, because there are now four lawyers. What happens economically is that in the general run of things the partners make money off of the associates. If you look at it as hourly compensation--there is a history about hourly compensation--look at it as hourly compensation, and if the associate charges $75 an hour, it costs the law firm X dollars more in overhead. Let's say for the moment it costs the law firm another $40 overhead, so that's $115. So the law firm has got to charge $115. I'm sorry, he doesn't get paid $75 an hour, he charges $75 an hour. I got my figures a little wrong. He charged $75 an hour but he only is paid maybe $25 an hour. There is $50 an hour that gets paid. Part of that is overhead, but part of that would go to the partners' compensation, and with some justification. I mean they built the business.

For him to earn more than $25--he wants to get up to $50 or $60 an hour--to do that you have to either raise your rates or you have to have some associates or something. What happens is that the way for an associate to develop and earn more money is to develop enough business or have enough business come his way or her way in such a way that there is growth. You don't start by taking money away from the

partners. You start by building the business and trying to earn money off of the associates. So you grow geometrically. That's a customary pattern.

Obviously, it's a pattern that has got to end sometime or another. Not all associates stay for one thing. But the growth is the kind of growth pattern that is evident by the people under you if you are going to earn more money. Retirement happens in older firms. That does happen. That's not the pattern my wife's firm has followed, but it was the pattern that was followed in the firm that I was with for a quarter of a century, Irell and Manella.

It comes to an end at some point. This era now--the late 1980s--is the era when law firms fold up. Law firms have always done a little--there's always a little of that, but it's never been to the dramatic extent that I have seen in the last 5 or 10 years. Also, I have never before seen the dramatic explosion in the size of law firms that I have seen in the last decade or so. Management becomes a significant problem. When you get beyond some point, somebody decides that somebody had better manage what's going on around here, or think about it, or who's going to order the stationery, hire staff, organize routine, etc., and who takes cares of this, that, and the other things.

Q. I asked Hermione about that in her law firm. She told me that it just happens, more or less, but she said they had an office manager.

A. Office manager may be the wrong word. Office administrator. There's a difference between management and an administrator. Maybe both, but he takes care of all that kind of stuff that has to be taken care of. Let me tell you an interesting characteristic about lawyers and growth. I made this comment publicly in Canada many years ago at an association meeting involving law firm management, and I was asked to talk about that. One of the comments that I made was--and still make--if I ask a lawyer, "How big is your office?" If you ask Hermione that question, "How big is your office?" If you ask this office, "How big is the office?" they will tell you it's 16 or 17, meaning 16 or 17 lawyers.

Q. Lawyers rather than partners?

A. Yes, but I think that it's worse than that because it's lawyers and not human beings.

Q. Yes that's right, isn't it.

A. I made quite a point of that in Wisconsin. We lawyers don't take into account--we forget, discard, don't think about in terms of our office all the human being that are involved in what I like to call the production of legal services. A lawyer doesn't produce legal services alone. No lawyer does. It always takes a lawyer and somebody else. Now there are a few instances I have run across where lawyers really do their own everything: typing and answering phones and so forth. Very rare, very rare. Lawyers don't do this alone. We always do it with somebody, and we don't produce legal

services except with somebody, with other bodies, and the other bodies are more in number than lawyers. There are 17 lawyers in this law firm and I think there are 23 other people. My wife's law office is even larger than that in terms of the number of people.

The general ratio that I seem to find in this kind of a community is about one and one-half non-lawyers to a lawyer, and sometimes two non-lawyers to each lawyer, and I've seen it as high as a four to one lawyer ratio. But I say generally that it's one and one-half to two. With a large law firm like--I don't know, we have a large law firm here in town--maybe 300 lawyers, they must have 500 other people. They must be feeding 800 mouths a day. Ask that firm how big its law firm is and they are liable to say 300. I can tell you that the figure is 800 people. It's a pretty telling comment in a number of respects. It means that we don't think about the law office as a total producing unit. What we are--what Lou Brown says we are, I guess maybe other people do too--is we are a--a law office is a producer of legal services. We are a producer. We produce something called legal services. There are a variety of services that we perform, but that's what we do. That's what a law office does. In terms of management, what you're managing is a producing unit that produces legal services.

Q. The difference between a corporation and a law firm is a partnership. Does that have some bearing?

A. None whatsoever. As a matter of fact, most law firms, or many law firms are corporations. My wife's law firm is a corporation. This law firm is a corporation.

Q. Not individual corporations but as a corporation in itself?

A. Some law firms are partnerships of corporations. That's in the last 15 or 20 years. I don't remember when, precisely, the law was changed to permit law firms to incorporate. In California and many states there is just the formal structure to form a legalistic structure. That has nothing to do with--very little to do with--management in my opinion. The partners have rights in themselves, but--

Q. But they each have a vote, as opposed to a corporation where it is headed by one person?

A. Now that's an interesting comment. Let me tell you something about that. [Inaudible] the vote of partners or shareholders, or call us what you want. There was a very interesting case in California, Anderson v. Brady, 151 C.A.2d 545, 312 P.2d 37. Anderson was a lawyer in the law firm of Brady & Nossaman. This case must have been in 1957. Anderson was a partner in the law firm and he left or got fired, I don't really know which, but the important thing is that he sued his partner Brady. Brady said, "As a partner you are going to get so much and no more." And Anderson says to the partner, "I am entitled to be treated as a partner, not an employee." And the court said, "Mr. Anderson, you make whatever arrangements you like, and whatever arrangements you

make you are stuck with. And if the arrangement in this thing is that Mr. Brady is going to tell you what your compensation is, that's what the arrangement was, and that's what it is."

Now, law partnerships are often operated that way. It gets down to the bottom line so to speak. It becomes a matter of negotiation between the partners, if you like, and the top macho tells what you are going to get. If you don't like it, you have to negotiate. If ultimately you can't negotiate, you leave. There may be, as a partner, there may be an agreement so that when you leave, but it's a matter of what, so to speak, Mr. Brady tells you, Mr. Anderson.

Now law firms generally operate that way. There may be a small committee of managing partners in a large law firm, but when it comes down to the real bottom line of how the pie is to be split up, it is usually a call of--it may be formal status. The agreement may be written so that at the end of three years at this status you will get raised to a level that the management committee thinks, and then the management committee among themselves will decide. After a while a certain pattern begins to set in and they will adhere to a kind of customary pattern of arrangements of who gets what. What offices are you going to be in? This whole business of status in terms of office. It's an interesting book by Snigel I think was the name of it. And there are newer things, newer methods, newer machinery in law offices.

Q. Rubber plant or ficus tree?

A. Well, and a number of other things. This computer (pointing) is mine. It doesn't belong to the office. I had this long before this office had computers. It took us a long time to get computers. Okay, that's a little speech about office management.

Q. Yes, that's only the top of the iceberg. We've only talked about how they grow. What other aspects have you thought about?

A. I'll give you another example. When I was in Irel & Manella I did much of the recruiting of law students and young lawyers. I, at one point, was considering a law student who I thought would be an excellent person in management. He had some years of experience and I urged the law office to consider him. He was a good student. He was a top student in the law class, not the top but among the top students in school. His forte was administration. I wanted the law office to think in terms of administration of the office. I wanted the law firm to interview him and hire him. I thought he would be a great help in the administration of the law firm. They didn't hear me, wouldn't listen to me.

Q. About what period was this?

A. This was about the 1960s I guess. Law firms don't, I think, hire people from the standpoint of management or administrative abilities. Law school education doesn't even touch the subject.

Q. That was another thing I was going to ask you about.

A. No, they don't even touch the subject. Efforts have been made to do some teaching or training along those lines of teaching, but generally they have not caught on. Nobody has been able to make it catch on. There are people that try to teach aspects of management and operations, maybe that goes on in some places, but I don't know of any in local law schools. I'm not that acquainted with every school.

There is really no standard text in the field of law office management. There are no cases on law office management. That's a business subject. That's like plumbing, I want to teach you to be a plumber, huh? In law office operations the person who becomes the honcho, the top manager, the top person in a law office isn't known for administrative abilities and chosen because of their administrative ability. [Inaudible] in terms of [Inaudible] and there is some merit in that to be sure. I mean they've got a lot at stake and that sort of stuff, but to assume that that person is necessarily a good manager is, in my opinion, a mistaken notion.

Q. Do they have to sort of live and learn? Do they try this person and then try that person?

A. Some law firms in the last 10 years do switch their management committee. You serve on it for a period of time and then you are off and another lawyer comes on. That happens, I can't pinpoint the date. That's an individual

matter with the individual law firm. There is no real standard pattern about that, no standard pattern about the top business getter being the top manager, but that's what I seem to see around most places.

Q. It wasn't necessarily the senior partner.

A. Well, the senior partner becomes senior partner because he was the top business getter. The senior partner can be replaced by a non-senior partner if the senior partner's business should drop off and the non-senior partner's business should develop. The senior partner is no longer the senior partner, even though he may be still around.

Q. He loses his authority just by osmosis?

A. Yes, it's a kind of claim or recognition or his own desire, sometimes, to grab that spot. Sometimes it's a desire <u>not</u> to grab it, but they pressure him. The making of the law office manager would be an interesting story. I haven't seen anything written by a sociologist or management person. Law office management isn't studied. In law school there are some books on office management, and there are some people in the business of counseling law firms in the management of their affairs. That's a development since certainly the latter half of this century, since '60 or '70. Altman & Weil is one name that comes to mind. There are several others that do a number of things in assisting law firms that I know and Edward Poll, a Los Angeles lawyer, and maybe he does, I just don't know, he's a nice fellow. I know him personally

but I don't know the extent of his business, but there's another lawyer by the name of Berne Ralston. Then there are some national firms and that's good. They tried to develop a kind of science of management, and there is a science to management. We've never hired anybody like that. I don't know that Irell & Manella has.

Q. Have you studied law firm management?

A. I studied it. I never studied it in a formal course.

Q. Yes, because I think that's been very little written about, not only the present day management but the historical changes.

A. Yes, I've written about historical changes. A funny little sidelight story. I got interested in the subject and have been for a long time. One of the things that has interested me has to do with the coming in of telephones in law offices, the coming of typewriters. I've written two fables. One was the fable of the telephone; the other is the fable of the typewriter. They are both very indicative. Then I had some research done. As nearly as I recall, I employed actually a classmate of Hermione's who was a lawyer named Violet Raum. Violet researched for me. She lived in Washington, D.C. She studied about what happened in law offices when the telephone was invented. Telephones are interesting. I remember--I wrote my fabled account, at least on this one--that the first telephone we had in our house on Clanton Street (where I lived) was a telephone that was not an automatic dialing

telephone. You had to lift the receiver and the operator in the central office would answer much as the operator does here in the office here. I want to talk to Main--whatever the number is--Main 1-2-3-4. She would then do whatever she--always a she by the way--had to plug in and you'd plug in Main 1-2-3-4. She could always listen in if she wanted to.

Q. That's how they knew everything that was going on.

A. Well, those were the first telephones, and law firms wouldn't use them. That's right. That's what the fable account says. The fable account builds the story up to how they got to be used. Well the confidentiality, I wanted to use the confidentiality. Well the fable goes, a client walked in the office and wanted to use the telephone and we didn't have a telephone so we put one out in the lobby, but we couldn't have one in the lawyer's office. Well some young lawyer upstart says, "Well the rules of confidentiality are that the client controls the confidentiality." We as lawyers are bound by it, but the client can waive it. The client asked me why I couldn't have a phone in my office and I explained it to him. This was a sophisticated client who knew he had the power to waive it. He says, "I'll waive it. I want to talk to you, so can't you have a phone?" Well I guess you can have a phone if he calls you, but you can't call him unless he calls. That's the way the fable goes. Violet's

research indicated the fable was not as much of a fable as it was the truth. It's hard to know because that kind of history isn't written.

The other fable is the typewriter. We used to write manuscript, and everybody is familiar with that, but if you want a good document, it's a longhand, written document, written by clerks in the office. We're familiar with that and those are okay. You can get those introduced as the evidence and we all know about professional appearance, and along comes the typewriter and it's not very professional. Written things are professional. This typewriter is a mechanical thing. That's not professional says the fable. I can't use that. All it will be used for is internal memoranda. Well, I couldn't use it for documents for clients because I've never seen a court case that accepts one of these typewritten things. Along came a case that did. Well, you've got a case like that and so forth, and I've got nobody here in the office trained about it. Well, typewriter companies will come in and train people. Something happened, coincidentally, an interesting phenomenon about the typewriter. Women became more proficient at the typewriter than men did. Men were--there was a time in law offices when there were no women around at all. They were all men. Men did all the handwriting and all that stuff. Like Charles Dickens.

Q. In the 19th century?

A. Yes. And I think the typewriter had a great deal to do with bringing in women and the women learned to use the typewriter, and I think that coincidentally brought women into law offices. There was a problem about that. The problem about that was that I don't want women around, they are gossipers. This is a place of confidentiality and we are not going to have these gossip kind of people around my place. And anyway, clients don't like women in my office. They only want men, so the women had to come in slowly. That resistance continues, not with respect to typewriters and telephones, but it continues as the resistance to the use of the computer. It continues with respect to the resistance of other kinds of changes that might take place in the law offices. We are--I guess it's a human kind of resistance, we resist change. We are familiar with what we are familiar with and we have to learn some new techniques or new something or other or work with different sorts of people and different environments. Major change in current--not so much law office management but this whole business of advertising now with us. That's grounded upon a case that went to the Supreme Court of the United States. Remember that? It was the case about the change permitting advertising.

Q. I've read that.

A. I was doing some reading in history the other day and I read that Abe Lincoln advertised.

Q. Abe Lincoln did advertising?

A. Yes.

Q. The bar would have disbarred him I guess.

A. No, there was no rule against it.

Q. There was no rule?

A. That's right, but I believe the rule prohibiting advertising didn't come in until the early part of the 20th century.

Q. That's interesting.

End Tape 2, Side A

Tape 2, Side B - Blank

Begin Tape 3, Side A

Q. You were just saying that the first amendment--

A. I should tell you that there has never been a prohibition against advertising by bar associations. There never was a prohibition. The Bates law firm in Arizona did some advertising. The Arizona bar got after them and the case finally went to the Supreme Court of the United States.

Orloff: When was this?

A. Not so long ago. In your lifetime, Chet, Bates v. the State Bar of Arizona.

Q. What year?

A. 1977. The first amendment, freedom of speech. You can do all the advertising you want as long as it's honest, not fraudulent and so forth. I pointed out that there never was any restriction against advertising by bar associations. Bar associations could always advertise. One of the purposes for advertising--one of the institutional purposes for

advertising--is to tell people about the law. It's legal education of a sort, but bar associations were never barred from advertising the benefits or detriments or what have you about law and legal education.

The bar associations really didn't exercise that right or that opportunity. I was chairman of the Los Angeles Bar Association in 1950 on the committee called the Public Relations Committee. It took a year, but I got a pamphlet out of that committee called "How to Employ an Attorney". That was approved by the Board of Trustees of the LA bar at the time. I thought that was the first bar association ever to do that. I learned later that it wasn't quite the first time a bar association published a pamphlet, but almost the first time. There were a few others that had done some programs before that. It was perfectly legitimate. There is nothing professionally improper about it whatsoever. A bar association just didn't do that.

Furthermore, I'll tell you another little story. Lawyers always advertised, always could advertise. How is the question. When you are a wealthy law firm you do your advertising because you can invite anybody you want over for dinner anytime you want, never barred you from your social life. I used to teach law school like this: you want to be very, very careful about solicitation. If solicitation is improper, if it's improper to solicit a clients, let me tell you how you do it. You invite your friend Chet over to your

house and you say to Chet, "What do you do for a living?" and he tells you. And pretty soon you get him to ask you what you do for a living. Now if he asks you what you do for a living, you can tell him all that you want to tell him. If that isn't advertising I'll put in with you. Now that was always permissible, always was, and that's the way large law firms always did it in one way or another of course. They would get on the board of directors or something, of this, that, and the other, but you always did that, and that was always okay.

The difficulty was not the difficulty with wealthy people but middle- and low-income people. Now you can't just take out a bunch of middle- and low-income people in a social engagement like you can the wealthy. One wealthy person can give you enough business to keep your whole office together, but one middle-income person can't do that. You've got to reach middle-income people. The rules that barred solicitation really barred the opportunity to communicate to middle-income and low-income people. Advertising opened that possibility up.

I know that our ex-Justice Berger hates advertising. He keeps telling us about it right and left. But if you read what he's written, he never touched this kind of subject about the status of arrangements of people and so forth. I'm not that fond of advertising in a sense, but I think it came about partly be default of the bar associations. I became

chairman of the state bar committee on public relations and did some stuff there. When I talked to lawyers I said, "Gee, you know, I'd like to have $25 a year from you to do some public relations work for the state bar. Will you give that to me?" "No I won't give it to you." "How are you going to do it?" and all that sort of stuff. I said, "Well, do it whatever way you want, will you give me the $25?" I couldn't get anybody to tell me yes. You couldn't get that done. Lawyers wouldn't finance bar associations for that kind of activity.

Now it hasn't changed in--that isn't quite true. It's changed somewhat--the manner in which lawyers market their services, even the large law firms, in that part of management, that kind of marketing. The subject of marketing law services is a clearly 1980 subject--1980 and, of course, the last decade. Larger law firms are having to do some marketing of legal services. You can do it more readily now than you could before the Bates case because you can prepare brochures and stuff. Law firms do that. You could always do something like that with wealthy firms anyway, and by inference I have already described to you. If I had a brochure and you asked me for it, I could give it to you kind of thing.

Orloff: It's analogous to an annual report of a corporation.

A. Firms didn't do that, but it's become more intense than that. What's happened now is that in terms of the purchase of legal

services--the buying of legal services--purchasers are becoming, you might say, mor sophisticated, but they buy legal services sometimes like they buy advertising--the services of an advertising agent. And how you do that, you have a big company and you want an advertising agency and so you say to them, "I am now going to hire an advertising agency. I fired my last one and I want to hire a new one. Give me some proposals." Now some clients are beginning to do that, give prospective clients proposals. Now that requires law firms to think in ways they have not thought of before and requires some different techniques inside the law firm itself.

Let me tell you where that's going. That's going in the direction of the budgeting of legal costs in a way that clients have never budgeted before and lawyers have never offered the opportunity to budget legal costs before. We are getting to the point where we are having to budget them at the command of the clients.

Q. How do you mean?

A. Well, you come to me with a case. Let's take the lung case. You want to know how much it is going to cost. I tell you, "Well, my hourly charge is $200 an hour, $300 an hour." And you say, "Well, that's fine, but how much is this going to cost me?" "Well, I've told you. $2-300 an hour." "No, how much is this going to <u>cost</u> me? How many hours in other words. I want a budget." That means that I now have to

think about how I am going to handle this case. You are going to be involved also in exercising some judgments because if you want to reduce the costs, you are going to have to take some risks. If you don't reduce the costs and allow me to go as far as I want to go, your legal risks are less, but going that far is going to cost you a bucket of money. If you want to spend only half a bucket of money, let's figure this out. We haven't yet gotten to the point where we know enough about budgeting, I don't think, so that we can do it as effectively as I think we will in the 21st century.

Q. The law firms?

A. The law firms, that's right. And you've pressed lawyers to do that. I've pressed the lawyers here to budget, four lawyers who are litigators, and they screamed to high heaven. They are not sophisticated enough, in my opinion. I don't tell them that, and you better not tell them that either. But maybe they don't have to be. Maybe their clients don't demand it. They are pretty decent because they really don't do something else which lawyers are prone to do--a thing that I call over lawyering. This office doesn't do that. There are offices that over lawyer, unbelievable amounts of over lawyering. There is no specific legal prohibition against over lawyering. There is no professional prohibition against over lawyering, not in so many words anyway.

Q. Let the client beware?

A. Yes.

Orloff: Well, I suspect that there is a difference of opinion about what over lawyering is. Some people might consider that better research rather than considering it over lawyering.

A. That's correct. You're a historian. Abraham Lincoln advertised, and how many other people advertise? And where did he advertise and when did he advertise and why did he advertise? You can go into the history of that thing in great depth, and it takes a lot of time. That's good work obviously, but I don't want to pay for it. I don't need that. And who makes that decision? Does the lawyer make it or does the client? Well the lawyers have been making that decision, and the clients are beginning to make that kind of decision to some degree. I think that the future of law office practice and notion that law offices are here to produce legal services. I think that clients ought to be more involved than the clients now are in the purchase of those legal services and how extensive the client want to pay for, and the willingness of lawyers to be a little more flexible in our production of legal services. One of the reasons for the tremendous cost of litigation is what I now describe, a kind of over lawyering.

Q. The wealthy client or corporation can afford to have in-house counsel which can then supervise the outside counsel, but here again we have a difference between a wealthy client and a less wealthy client.

A. That's right. I should tell you one more thing about advertising. The prohibition against solicitation was a prohibition against soliciting to obtain a client. Once the client relationship is established, there never was a prohibition against soliciting more business from that same client. Preventive law is of great importance because the client may not be familiar with--the client may come to you with a case. We have a litigation. Preventive law says I want to work with a client so that the litigation will not happen again. That's not what the client came to you for. Well, I have to sell that idea to you. There never was a prohibition against my selling that to you. It's true that it would ordinarily result in more work that I would do, but you don't have to hire me if you don't want to. The purpose of it is not just for me to make a living. The purpose is to maintain your legal health. That's a strong preventive law point. That's my field of interest. There never was a prohibition against that kind of solicitation, although lawyers will still tell you if you press them--if I press them, I press students, that still seems to be not in keeping with what a professional ought to be doing. It's too much solicitation. It's too much overbearing. It's too much--

Q. Why do you think there is this feeling?

A. The same feeling that when I go to a shoe store and a guy tries to sell me stockings, socks and shoes. I resent it.

Q. So you think that the profession feels that their clients will resent them?

A. Yes.

Q. Not just that they feel that it's unprofessional or whatever?

A. Well, they resent it. It's not good salesmanship. It looks too much like it's for my own personal benefit. And it's a hard thing to sell. It's not easy to sell.

Let me see if I can tell you something else about--oh, yes, let me tell you another aspect of costs of legal services. [Inaudible] You see, for me a law office is a place where legal services are produced. Law offices are producing. We produce legal services. We produce them at a cost. That's a subject that is not taught in law school at all. It certainly wasn't taught back when I was in law school. Let me tell you another thing about costs. This is a little task that I just got myself into recently. Rules of professional responsibility are written by lawyers, still written by lawyers. I now assert that they have not been written to the extent--that the people who pay for the rules of professional conduct are the clients. Clients pay for them. Whatever these rules cost, the clients pay. I don't think our rules of professional conduct have ever been analyzed from a cost point of view--cost to the client.

Let me give you the typical easy way to explain. I wrote an article not too long ago called "One Lawyer or Two". Two people on an easy case is two people on a partnership basis. There are times when our legal rules say if there is any adversity there, they each ought to have a separate

lawyer. That costs money. It sure as hell costs money. Why shouldn't the client have the opportunity to make that choice? The client is paying for it. There are conflicts. The client seems to understand that. We're not that stupid, Mr. Lawyer. You're not that brilliant. Well, you're brilliant enough to handle whatever little conflicts we might have. Maybe it's a big one and you can't handle it, but don't give me that speech now. If we say so, won't you be our lawyer? There are a lot of lawyers that won't do that.

Q. What if a client comes along and sues later?

A. Sues later for what?

Q. Because you represented both sides.

A. That's what lawyers are afraid of. I think that we've got to take some risks. I think that the clients have got to take some risks. If that's true, then our rules of liability have to be modified to some degree.

Orloff: How about the courts? Do they need to support this kind of philosophy in the same way that they sometimes keep hands off on contracts?

A. First of all, forget the courts. I'm not talking initially about a lawsuit by plaintiff against the defendant. I'm not talking about that kind of adversity where there is a court involved. Forget that for the moment. We may get to that, but take the far easier one where two people want to get married. They go to a lawyer and they say, "I've heard that there is such a thing as a premarital agreement." And the

lawyer says, "Oh yes, there is." "Is that a good idea?" "Yes, I think that's a good idea" says the lawyer, "but you'd better each of you have your own lawyer." "Look, we are getting married. We just want to have an explanation of what this community property stuff is about and maybe change it a little bit here and there or something." "You'd better have your own separate lawyer!" I hate that.

Q. In the old days one lawyer used to represent both sides in a divorce.

A. Yes, that may have happened. That even happened in one California case. I can give you a citation of that too. We don't do that that way now. If there is one lawyer involved, there is a trick to that. The trick is that neither party has a lawyer, and that's okay. You don't have to have a lawyer at all. You don't have to have a lawyer for a premarital agreement either. There is nothing in our legal system that requires you to have a lawyer ever. The only exception that I have ever found is in a few murder cases where the defendant is charged with murder. There are a few cases where the courts have insisted that they have a lawyer. But aside from that our legal system permits anybody to be his own lawyer even i a litigation, even in an extensive litigation, let alone in contracts. So one thing that I can tell you is you can be your own lawyer.

The other thing that I can tell you is that I'll be the lawyer for you but not for him. He can be his own lawyer.

There is nothing wrong with that legally. I'm not happy with that, but I'll just represent you and he'll be his own lawyer. That's the way it is done sometimes. I've even done that occasionally, rarely because I've rarely done divorces. Now all I'm really saying is that our rules cost the clients money. Representing a client in this conflict situation is an illustration. There are other illustrations. Our rules cost the people money. I don't think our rules have ever been analyzed from the standpoint of the cost to clients, cost to society, and whether or not, or to what extent, the clients ought to have a say-so in connection with the way our rules operate. The 21st century is going to change that.

Q. Is the goal of the rules basically to protect the lawyers in the long run?

A. It would seem to be, wouldn't it. Yet one rule is to protect the judicial system. I told you not to talk about the court system because the court system, our court system is clearly an adversarial process and it protects the adversarial process when you have separate lawyers representing each side. It does do that. The non-court matters are not adversarial in that sense at all. Let me tell you another sense in which they are not adversarial. This is my preventive law. Let me explain something to you.

When plaintiff and defendant have a dispute about something, they can go to the law court and get an answer. Suppose now two people are bargaining about the purchase and

sale of a piece of land called Black Acre. Black Acre has been sold and resold half a million times in law school education. The seller says I want a million dollars and the buyer says I'll give you $800,000, not a penny more. They don't agree. Is that a dispute? Well certainly it's a kind of difference and certainly they don't agree. Is that a dispute that can go to the court system? The answer is no. No. I'm very grateful for that. I wouldn't want the court system--the court system has got too much to bother it now. It doesn't bother with that. It doesn't bother with the making of contracts and the making of other arrangements.

If you want legal guidance, you have to come to a lawyer. You can't go to a court for any kind of legal guidance about that. You're on your own in bargaining. That's my area of preventive law. It's right here, and it's in the law office and it stops here to the extent that lawyers are involved. It doesn't go any further than that. But these rules that we have written about conflicts and all kinds of other things in our profession are rules, the history of which is in the litigation process. We take these litigation rules into my area of preventive law process and I don't think they properly work. They do work, but that's the rule so I can tell you, A and B, when you form a partnership, you better have your own lawyer. I want to change that. It is being changed slightly. The rules that the American Bar promoted and put forth a few years ago changed that to some

degree, but I want to go further. I want more interest in the cost of the production of legal services that go on in law offices to be a concern of the public.

Orloff: And the reverse, of course, in addition, is the valuing of those services that are promulgated in the rules so that they will also be asking how much are these rules saving the public by requiring lawyers to do such and such.

A. I don't think our rules--I even have thought about that. I don't think our rules do that. Let me carry the public a step further. This the legal office management in its law offices as producing units of legal services. I am hard pressed to find the cost of the court system in this country, how much the court system costs the public. I haven't found a place where I can point my finger and say somebody made a study of the cost of all the courts in this country. The same thing is almost true about law offices. It's very clear that the cost of law offices, the amount of fees generated by lawyers and the amount of salaries earned lawyers and all that private and public and corporate lawyers and all those lawyers is far, far greater than the cost of the court system. It must be. Furthermore, I don't even know the number of law office producing units that we have. We know the number of lawyers we have, but I don't know the number of units of production that we have, the law office being the unit of production. I don't know how many of those we have. I could make some guesses, but I don't know. I don't know whether anybody knows. Maybe people do, but I don't know.

Q. We could go through Martindale-Hubbel and count.

A. Well no, you can only count--well, that would be pretty good if you count the law firms. There are some figures that could be obtained I'm sure. But that doesn't help with the small law firm--the two or three lawyers who practice together and form a unit.

Q. Do you consider a sole practitioner? They also produce legal services, so they would have to be counted too.

A. That's absolutely right. My point is that if the public is interested in the cost of legal services, the cost of the justice system--the public ought to be interested in the cost of the justice system--lawyers are part of the justice system--the public ought to be concerned with the cost of this part of the justice system, which more than the cost of the court system. I don't find that the public really has taken an interest in the cost of how we operate our business.

Q. The clients have.

Orloff: That may also be a key difference. The court systems are considered a government service, provided by the government, paid for by taxes. The law office services are considered business expense, so it comes out of a different pocket. It's the idea of balancing the apples or oranges.

A. That's correct. It comes out of a different pot, but the pot is still the public. It's a question of how the public pays for it. In the court system they pay for it in terms of taxes and maybe some other costs, but in law offices they

aren't measured by taxes. Some law offices are, by the way: public defender's offices and governmental offices, district attorneys, city attorneys, government attorneys. Those offices are public in the sense that they are paid by the public. This law office isn't paid for by the public. It's paid for by the client, but in gross economic terms--I'm not an expert economist--but in gross economic terms the source of payment is still the public.

Orloff: The willing public in many cases. They are coming to you because they wanted a particular service. They need something. They have to pay taxes in almost every case. There is a choice there.

A. That's true. There is some choice as to whether or not you will use my services or not. I told you, you don't have to have a lawyer, that's true. But still, there is an enormous amount of money that comes out of the public's pocket to the legal profession. I don't find that the public has taken enough interest. Now let me give it to you in my terms of preventive law. I find that--and you find too--that the public has raised enormous sums of money for medical needs and medical prevention and continues to do so for the health of the public. I contributed to it too. There is a comparable, less dramatic, less significant but nonetheless significant notion that legal health, which the public really has not latched onto, and I have the feeling, and this is really a general idea, I have a feeling that as I develop

this field, I have a feeling that if we had a really fairly substantial sum, we could do a lot more about the legal health of people.

Q. Do you think that you are unique, or at least unusual, in being a lawyer that's concerned with this problem?

End Tape 3, Side A

Begin Tape 3, Side B

A. I was unique in the sense that I developed this notion of preventive law. Until I came along, this concept was not written about. I doubt that it was even thought about, although I can't really say that, but it was not written about and not developed as a separate body of concern for lawyers or anybody else. I don't say that lawyers didn't help people who came to them and said, "Help me make this will." "Help me make this contract", which is in the area of preventive law; they did. It was never identified as a separate subject of inquiry. It was not thought about as a body of legal services separate and apart from this whole litigation, until I came along and gave it a name called preventive law. I began to develop some techniques that were not heard of before. I began to think about, well, in fact legal education and education in general.

I used to ask the question, "What are the rules of legal health?" I know what some of the rules of medical health are. I know that I should brush my teeth, the kind of food I should eat, how many hours I should sleep, and a few other

rules that were helpful rules for guidance in my own conduct. What are the rules of legal health? They don't think about in terms of educating the public. The legal education of the public is not legal education that necessarily means the rules of legal health. They are the rules of law. The rules of law are one thing and the rules of legal health are quite another. There is no rule of law, no rule of law whatsoever, that says it's a good idea to keep a copy of a contract that you signed. That's not a rule of law.

Q. That's a good idea.

A. That's a rule of legal health. I kept a copy of the page I just signed for you. It's a rule of legal health. Now there are other rules of legal health, but what are they? I'll try to develop some and so on.

Q. Have you got a list?

A. Yes.

Q. Do you give these to people, or what do you do with them?

A. The state bar of California just produced that.

Q. It says a public education program.

A. This other thing I had the state bar write, but they didn't publish it. There are other checklists, but that's a pretty good one. I wrote the blue thing, most of it.

Q. There's one aspect of law office management that we--well there are several, we've covered an awful lot of them--you talked a little bit about recruiting, but you didn't really develop that.

A. I did a lot of recruiting. Active recruiting expanded considerably. I started right around the late 1940s, so I was doing recruiting in the '50s and '60s. I have expanded considerably since then. Recruiting means finding law students that you want to hire. In the earlier days of recruiting, in the earliest days like in the depression there was almost no recruiting I suspect. You got a job by using your own shoe leather. That changed so that what happened was lawyers began to come to law schools and the first hiring was with respect to senior students--third year students--who were graduating. There was probably almost no hiring of second-year or first-year students. My recruiting (beginning about 1950) was always to senior law students. Some law firms began to do some recruiting with respect to second-year students. I think after I left in 1972 the firm did some of that. That means going to law schools and interviewing at law schools, and the interviewing was--you made arrangements in advance with the schools who had--all schools had a placement office, or some other such name. They arranged for student interviews with lawyers. You can have some specifications. For example, my interviews were always 30 minutes, other law firms would make them 20 minute interviews. In the earlier days you used to be able to specify whether I wanted only students only in the top 10 percent or the top 20 percent of the class.

Q. What do you mean it doesn't work? They won't do that?

A. They won't do that anymore. That began to be cut out in the 1970s. The amount of compensation is an interesting thing in terms of cost. Let me tell you this little story. When I first went to work in the law firm I told you about, I got $75 a week--no, I'm sorry, $75 a month. The secretaries earned more than I did. I got paid, and there were lawyers that didn't get paid anything. There were one or two people I knew that got paid something more than I got paid. The secretaries earned more than the lawyers did. They are worth more is the answer, and that was the truth. No question about that. They knew what kind of paper to use to write a complaint on; I never knew that. I never knew there were rules that it had to be on a certain kind of paper. I had to learn that, okay, whatever. And they knew how to do a lot of things. I told you I worked for Glenn Behymer for a summer. He was a mechanics' lien lawyer. The secretary knew all about filing the mechanics' liens and was quite an authority on that in her own way. The switch took place sometime after the 1930s, the switch being that lawyers began to earn more than secretaries did--beginning lawyers--even though they weren't worth it. I don't think beginning lawyers are worth it now, although some of them are getting paid like $75,000 a year or, I don't know, fantastic sums. That happened because the law firms began to outbid law firms and the law firms like to obtain the top talent that we could find. The market began to shift for those students. The demand for lawyers

shifted, the market shifted, all things together, but the fact is, it did shift. It shifted dramatically and seriously. Secretaries get about $25-35,000 a year and lawyers start at $50,000 or $60,000 or $70,000 and law students in their second year would get $1,000 a week. For what? That's advance recruiting is what that largely is, to see whether you would like to stay with us.

Q. Summer associates.

A. Summer associates, yes, that's right. The amount they can add to the legal service is pretty minimal. They can do some research, but it mostly has to be guided research and all that sort of thing. The economics has shifted for lawyers as compared with non-lawyers in law offices.

Q. Do you have some notes of things that you wanted to cover?

A. Yes, there is one more thing that I want to tell you about. In terms of the management of law firms, the process and procedure which are two things that I want to talk about can be called a flow chart. When I was in business for a time--I didn't tell you this, I was in business with my father for 5 years--when I was in business with my father I learned about business. One of the things that we did was to do flow charts. One of the businesses was making medicine cabinets. We started with a piece of steel and some glass. When I was practicing in a law firm, Irell & Manella, I used to make flow charts of the production of legal services.

Q. That was a novel idea.

A. That's startling. It's not only a novel idea, but it's startling if you really trace this piece of paper back and forth and forth and back. You ask yourself, "Why does it have to go back and forth so many times?" And it does go back and forth lots of times.

Q. Between the lawyer and the client?

A. Between the lawyer and the lawyer in the office. Sometimes between the lawyer and the client and sometimes between the lawyer and the lawyer. There are other kinds of aspects of the flow chart, the conversations that take place, research that is done, et cetera. I have considered this flow chart idea as applied to law office management at Irell & Manella. I've done it a little bit when I was at Irell & Manella. I've talked to you a little bit about paralegal and a little bit about legal education, law office management. The paralegal field: I told you that Glen Behymer's secretary was an expert in mechanics' lien law. His secretary. She wasn't a lawyer. I got into the paralegal business early on as an educator at USC law school. I used to yak a good deal about how the American Bar Association was terribly interested in law school and law school education. I think that's fine. I think the influence of law school education has been positive and good. I think it's helped to improve law school education and helped to maintain a standard. But I keep telling people that lawyers are not the only ones that produce legal services. Non-lawyers are a part of the game.

There are more non-lawyers in the production of legal services than there are lawyers. We aren't doing anything about those folks, although they are part of the team producing legal services. You ought to do something about those people. You ought to offer them some education, some help.

Orloff: Because they are important. There are 4,000 employees in the 9th Circuit and another couple of hundred judges.

A. Okay, so I got into the paralegal business at USC and so the end result of that was that I was asked to, and did, and offered a course to non-lawyers on Saturday morning. We thought we'd have about 30 or 40 people in the course, and we had 130. They were mostly all secretaries. A few people were sort of retired or weren't working and they were looking at this as maybe a way to get back in the work force. Mostly women, but there were some men--about 10 percent men in the class. Some came from as far away as San Diego to this class. That started the paralegal program at USC law school. This continued for a number of years. It continues still but in a different frame, a different method. It is now a kind of continuing legal education department for paralegals.

In order to prepare for this class I said, "I'd like to do this, but two things: I'm terribly busy and I don't have the time to develop the teaching materials that I need to develop. Can you offer me some help?" Financially or otherwise, they couldn't offer me a damned thing. So I

figured out that what I should do was to see if I could get a class of students together. When I got a class of students together, I used students as my sounding board. I've never figured out how to use students for my kind of research much. They don't help me much, but as a sounding board they are pretty good. I had a class of about 10 students who I worked with in terms of office management, if you want to call it that, but what goes on in a law office in terms of non-lawyers, among other people, Frank Zolan. Do you know Frank Zolan? Well, he the court administrator. I think he just retired from the Los Angeles Superior Court. He was one of the people who came to my class and talked about his work. I think I had somebody else from the court system. That class was interested not only in how lawyers operate with non-lawyers, but how the whole judicial system works with lawyers and non-lawyers. Not only that, but I am interested also in collateral professions like escrow officers and other people that work with legal stuff. We never got that far in our development of course material, but we did get so far as to talk about administration and, to some extent, court clerks and other people of that sort. That's part of law office management that I got into, but that student aspect never continued. I offered one semester and I got the materials I wanted to get. I was never asked again to offer that paralegal course, although the law school then began to develop the paralegal program, a certificate paralegal

program. A friend of mine by the name of Elizabeth Horowitz took on the management; I refused to take on the administration. Again, administration takes an enormous amount of time and I just didn't want to do that, so Elizabeth Horowitz took it on and she managed it for quite a number of years. When she left, the program fell into different hands.

One of the things that I wanted to do in legal education with respect to law office management I never got into. I offered--I suggested at USC, this is in terms of legal education, I suggested at USC that I would be willing to take some students who are now at work in law offices. That's another development that occurred. Students began to work in law offices, probably always did but began effectively to work in law offices when tuition in law school began to rise and almost collaterally more and more students began working part-time. There are some rules in the American Bar Association, law school limit employment and so forth, but I don't know if that's adhered to very strongly, that limitation. It's not too severe anyway. The fact is that there are law students who work in law offices while they go to law school. Many of them work in the summertime--second- and third-year, first-year students, second-year students. I wanted to take a dozen of those students who have had experience in law offices and ha access to law offices, and I wanted to use them as a kind of class--seminar if you want to

call it that, workshop is maybe a better name--and deal with the way in which they work in their law office and what goes on in their law office.

Well, even beyond that. I wanted them to do observant education, that is to say, to observe and see how people operated, look at a lawyer and a secretary. How do they work? Lawyers and secretaries in this office work differently. How do they? Which is better and why? And do a flow chart. And a number of other ideas that I had--a great many other ideas that I had--that would have to do with law office management. I put this to the school. Generally I could take on a course if I wanted to. This paralegal thing, I was asked to when I took it on. This thing here I wasn't asked to, and maybe I was a little squeamish. I didn't want to take it on because it is very tough to do it the first time, very difficult, very experimental, very experimental, and without concurrence of the faculty committee on curriculum, and I didn't know who I could depend on anyway. But I approached them about this. I had two or three discussions with them, and one member of the committee said, "Yes, if you want to, go ahead." But the other members were cooler than lukewarm, so I never did it.

I've written it up and I have a file of my ideas bout it, but there is another point to that. In law school education some think it's bad for students to work outside the law school. They should devote all their time to studies

and shouldn't do this outside stuff. I was taking the reverse tact and saying, let's look at society the way it is. These people in fact are doing that. Let's take some advantage of that from an educational point of view and do this, or try to do this and see what comes of it and see if it's viable. I think I could do it, but I don't think there are very many other people who can. I have enough experience with law firms and lawyers and law offices and production of legal services. Most professors are so far removed from that it's pitiful. But I never did that. That's the way I think law office management could be taught in law schools and from that develop some materials and from that teach it.

Q. I think the time is coming when somebody is going to demand that.

A. Somebody has got to do something about that.

Orloff: Is there an analogy here to what goes on in say medical school where they want to get the education done in 4 years and they've got to work summers too. They's don't give medical students, I don't think many schools, a course in managing a medical office. They simply figure that they will get that after they are done. Is there time in the law school curriculum for this? Would you consider it such an important matter that it ought to be made a part of it because it makes more sense for a law student to know how to run an office than it would a medical student run a medical office?

A. There are two reasons I think it ought to be done in law school. One is that it ought to be done for the reason that

some students ought to become aware of this as a phenomenon. The other reason that it ought to be done is that I would hope that members of the faculty doing this would be able to be critical of the way in which law is practiced. We are terribly critical of the way in which appellate courts decide cases. I think that the law journals do a splendid job of being critical. Newspapers do too, to some extent, but the law reviews do a splendid job of being critical of the way in which appellate decisions are written on the current contents--substantive contents--and a lot of other things about that.

I would hope that if law office management was part of legal education, that the law school as a research unit--as a critical body of independent thinkers--would get involved in this whole business of the rendering of legal services, and I think that's the other reason that I would like to see it done. I've said things like that, but I don't see it being done. The people who are in law office management, like Alman & Weil and some of the other names that I don't think of at the moment, there's a long string of them. I'm not sure that they are critical in the kind of sense that a faculty would be. I think they are helpful, I guess, I've never used their services, but I'm sure they are helpful at times.

I don't know enough about some of the current ways of developing files in law files and cross-referencing and use

of the computer in the files and stuff they do. They know a lot about that. I don't know that they are critical of the cost of legal services. Improvement of legal services to the public and the kind of attitude that I would hope that a faculty would have of the way in which we lawyers are. I don't think we are critical of ourselves. Those are my observations.

Q. You've been talking for a long time.

A. Those are my observations on law office management and any other questions you may have about that, I will try to answer them. I've never been in office management. Never have been. I've observed office management, but I've never been one before. I'm not sure I'd be a good one. I've managed things, and I'm a pretty good administrator.

I'll give you another law school thing. Now that has not been so successful but partially successful, a thing called law office classroom. Every law school in the country is required under the rules of the American Bar Association to have a facility adaptable as an appellate courtroom, and every law school has that. Some go beyond that and they have trial facilities. I, years ago, began to urge that law schools ought to have a law office, which should be a classroom. I funded more than a dozen such across the country--Harvard, Notre Dame, Maryland, Baltimore, Villanova, San Diego, McGeorge, USC, and a few others, not to a great extent but to the extent of $5,000 each. Harvard got a little more money than that out of me.

Some of these schools really did for a while. Some schools still continue to. Iowa continues to, San Diego continues to, McGeorge continues to. USC, my own law school, folded its law office classroom. It needed the space for a photocopying machine, that's what happened. The fact is that they folded the room up and they used it for that purpose. The facility in San Diego is superb, and they use it. There they developed two rooms. One is a small office-type room and the other is one of these one-way glass things with sound equipment and the other is a classroom. You can observe activities that go on. McGeorge has some very fancy law offices that they use; through sound equipment and video equipment, they can project a law office. Iowa does the same thing, so does Maryland, Baltimore. I don't know what some of the other schools do. Harvard used to have and room, and I don't know what has happened to that. That may have been folded up too, I'm not sure. It's a challenge; it's not an answer, its a challenge.

The moot courtroom and the moot court competition was an outgrowth of the way in which law schools were being taught. The law office classroom and the client counseling competition is the reverse. It says we ought to be doing this, let's do it. That's quite a different thing, and it's much harder, much harder to get across.

Let me give you--I told law schools about this kind of project. It's a wonderful project, and no law school has

ever done it. One of the common things that goes on in society, especially now in the years of economic hardship, is what are called creditors' meeting. A debtor will call a creditors' meeting. That means that the debtor is in some financial difficulty, not yet read to go through bankruptcy; if you go through bankruptcy, you can hold off the creditors. Instead of going through bankruptcy, to hold off the creditors you call them together and say, "I know I can go bankrupt." You hold off without going into bankruptcy, which is an expensive process. "You'll get more money if you just stand by and we'll treat this", and so forth.

Well, creditors' meetings have been going on for a long time, generations. There is nothing confidential about them. Technically, nothing confidential about them at all. I don't mean to say that the debtors would welcome publicity about it, but there is nothing technically confidential about it. I've talked to a few bankruptcy lawyers who do this kind of stuff and they say, "Yes, I mean there's nothing confidential about this, and I think we could do this before a group of students." I don't know that a law school ever has. It's a wonderful, wonderful experience to expose students to--it's as wonderful as students who watch an operation and get some training in advance and then some discussion afterwards.

There are other activities that go on in law school that go on in the outside world. Well, those are my kinds of things that interest me. The part of a big framework in which law office management is a segment of.

Q. Well, I really do thank you very much.

End Tape 3, Side B

For more complete information see Louis M. Brown, Lawyering Through Life, 1986, also in the archives of the Ninth Judicial Circuit Historical Society.