

Please note that this transcript is being made available for research purposes only and may not be reproduced or disseminated in any way. Should you determine you want to quote from the transcript, you must seek written permission from the UCLA Library's Center for Oral History Research:

UCLA Center for Oral History Research  
Room 11717 Charles E. Young Research Library  
Box 951575  
Los Angeles, California 90095-1575

[oral-history@library.ucla.edu](mailto:oral-history@library.ucla.edu)

ORAL HISTORY WITH HAROLD W. HOROWITZ

Interviewed by Diana Meyers Bahr

Completed under the auspices  
of the  
Center for Oral History Research  
University of California  
Los Angeles

Copyright © 2003  
The Regents of the University of California

## COPYRIGHT LAW

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be used for any purpose other than private study, scholarship, or research. If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

## RESTRICTIONS ON THIS INTERVIEW

None.

## LITERARY RIGHTS AND QUOTATION

This manuscript is hereby made available for research purposes only. All literary rights in the manuscript, including the right to publication, are reserved to the University Library of the University of California, Los Angeles. No part of the manuscript may be quoted for publication without the written permission of the University Librarian of the University of California, Los Angeles.

## CONTENTS

Biographical Summary .....	vii
Interview History .....	ix
TAPE NUMBER: I, Side One (September 9, 1999) .....	1
Family background--Early activities and influences--The sixtieth reunion of the Wolves Athletic Club--Horowitz's service in the United States Air Force--His desire in junior high school to become a lawyer--Parental expectations--His reasons for attending UCLA and Harvard University.	
TAPE NUMBER: I, Side Two (September 9, 1999) .....	23
Receives an LL.M. at University of Southern California--His doctoral work and specialization in civil rights at Harvard--Horowitz's interest and participation in the Los Angeles Jewish community--An instance of anti-Semitism in a Los Angeles law firm--His experimental course at UCLA on law, lawyers, and social change.	
TAPE NUMBER: II, Side One (September 15, 1999) .....	36
Horowitz's position as associate general counsel in the Department of Health, Education, and Welfare--Reasons for his return to Los Angeles--Issues surrounding the Angela Y. Davis controversy--Horowitz's involvement in the litigation of the Davis case--Its impact on UCLA--Horowitz's role in helping to bring suit against the University of California (UC) over the possible abridgement of academic freedom.	
TAPE NUMBER: II, Side Two (September 15, 1999) .....	53
Charles E. Young's support of the litigation against the University of California in the Davis case--Horowitz's role as a conduit between the University of California and advocates for academic freedom--Consequences of the Davis case--Rationale for the Board of Regents of the University of California's position in the Davis case.	
TAPE NUMBER: III, Side One (September 22, 1999) .....	65

Accepts a position at the Department of Health, Education, and Welfare (HEW)--His duties as general assistant counsel at HEW in Washington, D.C.-  
-The administrative structure of UC system--The issue of access and privacy regarding university personnel files.

TAPE NUMBER: III, Side Two (September 22, 1999) ..... 81

The academic personnel review process--Dispute resolution for nonpromoted scholars at UCLA--Impact of the California Senate Bill 251 on academic privacy--The authority to assign teaching loads in the UC system--The handling of the employment of spouses--Flexibility in the academic hiring system.

TAPE NUMBER: IV, Side One (September 29, 1999) ..... 97

Areas of possible conflict between the California State Legislature and the University of California--The relationship between the Board of Regents of the University of California and the California State Legislature--The chain of command in the UC system--Recalling professors from the Voluntary Early Retirement Incentive Program--Horowitz's role in the implementation of the Native American Graves Protection and Repatriation Act.

TAPE NUMBER: IV, Side Two (September 29, 1999) ..... 116

More on Horowitz's role in the implementation of the Native American Graves Protection and Repatriation Act--His teaching and research--His participation in the President's Task Force on the War Against Poverty.

TAPE NUMBER: V, Side One (October 13, 1999) ..... 125

Horowitz's duties in the Office of Economic Opportunity--Assists in the litigation of desegregation cases--His staff work on the McCone Commission as deputy general counsel--Contributors to the McCone Commission report on the Watt's riots--Assesses the strengths and weaknesses of the McCone Commission--The reasons for the formation of the citizens' committees by the governor of California.

TAPE NUMBER: V, Side Two (October 13, 1999) ..... 145

An anecdote about George Slaff, acting chairman of the Governor's Commission on the Law of Preemption--The Western Center on Law and

Poverty--The *Serrano v. Priest* case and its significance--Judicial activism at the federal level.

TAPE NUMBER: VI, Side One (October 20, 1999) ..... 156

More on the Western Center on Law and Poverty--The genesis of the *Serrano v. Priest* lawsuit--Horowitz's most notable achievement at UCLA--Respected fellow co-administrators--The difficulty among professional school employees at UCLA of balancing their university responsibilities with those of a private, outside position--The issue of collective bargaining and the unionization of academic personnel.

TAPE NUMBER: VI, Side Two (October 20, 1999) ..... 175

An anecdote concerning a vote on collective bargaining at UCLA--Challenges facing the UC system.

Index ..... 182

## BIOGRAPHICAL SUMMARY

### PERSONAL HISTORY:

**Born:** June 28, 1923, Los Angeles, California.

**Education:** B.A., UCLA, 1943; LL.B., Harvard University Law School, 1949; LL.M., University of Southern California, 1954; S.J.D., Harvard University Law School, 1967.

**Spouse:** Elizabeth Marmorston Horowitz, two children.

### CAREER HISTORY:

Professor of law, University of Southern California, 1950-54, 1955-61.

Ezra Ripley Thayer Teaching Fellow, Harvard University Law School, 1954-55.

Associate general counsel, United States Department of Health, Education, and Welfare, 1961-64.

Acting professor of law, UCLA, 1964-65; professor of law, 1965-90.

Vice-chancellor for faculty relations, UCLA, 1974-90.

### PROFESSIONAL ACTIVITIES:

President's Task Force on the War Against Poverty, 1964.

National Advisory Commission to the Legal Services Program, United States Office of Economic Opportunity, 1965-73.

Governor's Commission on the Los Angeles Riots [McCone Commission], deputy general counsel, 1965.

Governor of California Commission on the Law of Preemption, 1966-67.

### AWARDS AND HONORS:

Phi Beta Kappa.

Phi Eta Sigma.

Pi Sigma Alpha.

Pi Sigma Mu.

Ezra Ripley Thayer Teaching Fellow, Harvard University Law School, 1954-55.

Book Review Editor, *Harvard Law Review*

Human Relations Award, City of Los Angeles.

#### SELECTED PUBLICATIONS:

*A Study to Determine Whether Probate Code Sections 289-259.2 Should be Modified or Repealed.* Sacramento: California Law Revision Commission, 1957.

*Recommendation and Study Relating to the Right of Non-Resident Aliens to Inherit.* Sacramento: California Law Revision Commission, 1969.

*Law, Lawyers and Social Change: Cases and Materials on the Abolition of Slavery, Racial Segregation, and Inequality of Educational Opportunity.* With Kenneth L. Karst. Indianapolis: Bobbs-Merrill, 1969.

## INTERVIEW HISTORY

### INTERVIEWER:

Diana Meyers Bahr, B.A., Journalism, San Jose State University, 1952; M.A., English, California State University, Dominguez Hills, 1972; Ph.D., American Indian Studies, UCLA, 1990.

### TIME AND SETTING OF INTERVIEW:

**Place:** Horowitz's home, Los Angeles, California.

**Dates, length of sessions:** September 9, 1999 (67 minutes); September 15, 1999 (69); September 22, 1999 (82); September 29, 1999 (66); October 13, 1999 (68); October 20, 1999 (62).

**Total number of recorded hours:** 6.9

**Persons present during interview:** Tape I, Horowitz, Adam Horowitz, and Bahr; Tapes II-V, Horowitz and Bahr.

### CONDUCT OF INTERVIEW:

The interviewer conducted background research in the files of the Chancellor's Communication Office, UCLA and in the Charles E. Young Research Library, UCLA. Material consulted included publications by Dr. Horowitz, archives with files on the Angela Y. Davis case, files on faculty relations issues for 1974-90, files relating to the University Committee on Academic Personnel and the Presidential Advisory Committee on Academic Personnel Records, files of the Regents' Special Committee on Constitutional Autonomy of the University of California, files with material on the Voluntary Early Retirement Incentive Program, NAGPRA (Native American Graves Protection and Repatriation Act) files, archives with material on the Governor's Commission on the Los Angeles Riots of 1965 (McCone Commission), material on the Office of Economic Opportunity, Washington, D.C., and the Western Center on Law and Poverty, Los Angeles, California.

The interview is organized chronologically. Major topics discussed include Horowitz's primary and secondary education; his involvement in the Angela Y. Davis case; his duties as general assistant counsel at the Department of Health,

Education, and Welfare; his contributions to UCLA's academic personnel review process; his participation in the McCone Commission following the Watt's riots; and his work on the Western Center on Law and Poverty concerning the *Serrano v. Priest* case.

#### EDITING:

Gail Ostergren, editorial assistant, edited the interview. She checked the verbatim transcript of the interview against the original tape recordings, edited for punctuation, paragraphing, and spelling, and verified proper names. Words and phrases inserted by the editor have been bracketed.

Horowitz passed away before he was able to review the transcript.

William Van Benschoten, editor, prepared the table of contents. Ostergren assembled the biographical summary and interview history. Laura Wyrick, editorial assistant, compiled the index.

#### SUPPORTING DOCUMENTS:

The original tape recordings of the interview are in the university archives and are available under the regulations governing the use of permanent noncurrent records of the university. Records relating to the interview are located in the office of the UCLA Oral History Program.

TAPE NUMBER: I, SIDE ONE

SEPTEMBER 9, 1999

BAHR: We usually like to begin by asking people when they were born. When were you born?

HOROWITZ: Did you say where?

BAHR: When?

HOROWITZ: I had a test for a hearing aid the other day and I need one, so I may come back to you and say, "What did you say?"

BAHR: Join the club. [mutual laughter] What is your birth date?

HOROWITZ: June 28, 1923.

BAHR: And where were you born?

HOROWITZ: Los Angeles.

BAHR: Los Angeles. A native Los Angelino. So am I.

HOROWITZ: Where did you go to high school?

BAHR: We're going to talk about this. We're going to talk about where you went to high school. What were your parents' names?

HOROWITZ: My father's name was Louis. My mother, Clara [Zimring Horowitz].

BAHR: Horowitz, right?

HOROWITZ: Yes, yes.

BAHR: Your paternal grandparents-- Their names?

HOROWITZ: I don't have any-- I have almost no information about our family in Europe before my father and mother both emigrated.

BAHR: From where?

HOROWITZ: My father was born, I believe, in Austria. At one point his family-- The history I do not have at my beck and call--

BAHR: So your father was first generation in America?

HOROWITZ: Yes.

BAHR: Do you know, did he settle in Los Angeles immediately?

HOROWITZ: Both he and my mother came west from New York City, independently of each other.

BAHR: I see. Do you know anything about your maternal grandparents? Were they also from Europe?

HOROWITZ: Poland.

BAHR: Poland. And do you by any chance know their names?

HOROWITZ: No.

BAHR: Okay. How about siblings? Do you have brothers or sisters?

HOROWITZ: A sister.

BAHR: And her name?

HOROWITZ: Madelyne [Horowitz Sklar].

BAHR: And her last name?

HOROWITZ: Her name now is Sklar.

BAHR: Is she younger?

HOROWITZ: Yes. Younger than I, yes.

BAHR: By how many years? How many years younger?

HOROWITZ: Let's see, I was born in 1923. She was born-- I don't know. I'd have to sit down and calculate that.

BAHR: Oh, it's not that important. Now, let's move on to your marriage. What was your wife's maiden name?

HOROWITZ: Elizabeth Marmorston [Horowitz].

BAHR: When were you married?

HOROWITZ: Nineteen fifty-two.

BAHR: And where?

HOROWITZ: In Los Angeles.

BAHR: Is your wife Elizabeth a native of Los Angeles?

HOROWITZ: No. She was born in New York and came here around mid-teens.

BAHR: But you met her in Los Angeles.

HOROWITZ: Yes.

BAHR: How many children do you have?

HOROWITZ: Two.

BAHR: And their names?

HOROWITZ: Adam [Jonas Horowitz] and Lisa [Horowitz Schwartz].

BAHR: And who is older?

HOROWITZ: I am. [mutual laughter]

BAHR: We know that.

HOROWITZ: I'd better be.

BAHR: Is Adam or Lisa older?

HOROWITZ: Lisa is older.

BAHR: Lisa is older. Okay. Do you have grandchildren?

HOROWITZ: Yes, three.

BAHR: Oh, that's nice. What are their names?

HOROWITZ: Well, one is named Lexi [Horowitz], and another is named Aron [Schwartz]. And the third is named Hilary [Schwartz].

BAHR: Do they live nearby?

HOROWITZ: No. Unfortunately not. Lexi was on a trip to Cambodia. So we just picked him up from the airport before you came over. We're beginning to hear him unwind himself about how Cambodia looked to him. He's ten years old, I guess. Nine years old.

BAHR: Well, that's a great trip. How old is Aron?

HOROWITZ: Aron will be eight or nine this coming January.

BAHR: And Hilary?

HOROWITZ: She was born in 19--

BAHR: That's okay. Are these all from the same parents? Are they all Adam's children?

HOROWITZ: No. Adam has one son, and Lisa has one son and one daughter.

BAHR: I see. And Lexi is Adam's son.

HOROWITZ: Yes.

BAHR: Got it. Okay. Let's move on to where you went to school. I presume it was in Los Angeles. Where did you go to elementary school?

HOROWITZ: [It was] called Virginia Elementary School.

BAHR: Virginia. Okay.

HOROWITZ: It's near the Adams-Crenshaw area.

BAHR: Yes. All right. Did you go to a junior high school in Los Angeles.

HOROWITZ: Uh-huh. Mount Vernon [Middle School].

BAHR: And how about high school?

HOROWITZ: Dorsey [Senior] High School.

BAHR: My word. Do you recall if you had any primary interests in school?

HOROWITZ: In elementary school?

BAHR: Yes.

HOROWITZ: Did whatever the teachers or my parents told me to do, I guess.

BAHR: Is that right? How about in secondary school?

HOROWITZ: Well, I was active in the school newspaper. That was one example.

BAHR: Oh, were you? Do you recall what attracted you to being on the school newspaper?

HOROWITZ: Well, I was on the school newspaper in junior high. So it started early. I don't know, you had to cast around for interesting things to do in programs sponsored by the school. I'm not sure there was anything more than that that can explain my interest in being on the school newspaper.

BAHR: Were you attracted to writing?

HOROWITZ: Not as I would describe writing today, thinking about-- No. I just can't think of any other answer to that.

BAHR: Did you have any primary interests or influences outside of school? Were there any influences on you that you can recall?

HOROWITZ: My peer students. We had a sixtieth year reunion of a club that a number of us belonged to when we were in elementary school and junior high school.

BAHR: My word.

HOROWITZ: And there are enough of them around the Los Angeles area that it made sense to come together and have dinner one night. With what we did-- You're asking

about other influences on me. We were interviewed by a [*Los Angeles*] *Times* reporter. This was an organization called the Wolves Athletic Club and it existed to go to the school yard after school was over to play softball or what have you.

BAHR: Had you stayed in touch with these people all these years?

HOROWITZ: No. One in particular, who became our insurance agent, we had relatively frequent contact with. But I think he was the only one.

I was quoted in this story--this has a point to it--about having been asked "What did it mean to you to be in the Wolves Athletic Club when you were nine years old?" And the answer I gave was an interesting one. I never would have dreamed up the answer beforehand. Now, let me see if I can reproduce it. One of the tenets of that group of kids was that anybody who shows up plays. Even if you get twice as many players on a side as you ought to have, just showing up meant you were entitled to play and nobody was left out. I thought that was an amazing thing for this group of kids to come up with a way to say you're not going to be thrust out of this by a blackball or what have you. You're a--

BAHR: Or lack of ability.

HOROWITZ: Particularly lack of ability. And the final sentence in that statement I gave you was-- I said the Wolves Athletic Club must have been very important to me because I was not very talented athletically. And here was a group of kids who were doing all of the cream-of-the-crop kinds of things around the neighborhood, and I was able to participate in that group activity. I sound like a sociologist.

BAHR: It is an interesting story. And the kids organized it themselves?

HOROWITZ: Yes. It sounds grander than it undoubtedly was, but--

BAHR: Well, very democratic.

HOROWITZ: --the other night at our dinner, no one else even referred to that.

BAHR: Were there very many people who attended this dinner?

HOROWITZ: Twenty-five.

BAHR: Well, that's good.

HOROWITZ: [It was] interesting to see where everybody ended up. And a great portion of the total ended up on the Westside of Los Angeles.

BAHR: I was going to ask you that.

HOROWITZ: Some in professional areas, others in commercial areas.

BAHR: But you hadn't seen these people, except for the one person.

HOROWITZ: I had not talked to any of them since the last time. I assume that people are carrying on their lives as they existed before.

BAHR: That's amazing.

HOROWITZ: But one of the things that was the greatest fun for me was to call somebody on the phone, get him on the line--notice I said him, not her--and say, "This is a voice from your past," and let him nibble away at what it was. And then there would always be a big roar, saying, "My God!"

BAHR: So that's how it was organized. You called? How did you know--?

HOROWITZ: You mean the dinner thing. Yes. How did I know what?

BAHR: How did they organize the dinner. How did they know how to contact these people?

HOROWITZ: The one fellow I'm referring to with whom we had contact with over the years is gifted in being able to remember people's names and who they are and what they do. So he led the small subcommittee that endowed itself with authority to organize a reunion dinner for this group.

BAHR: What fun! Really. Now this was in junior high school, am I correct?

HOROWITZ: I think, yes, junior high. Then it probably got on into senior high.

BAHR: Oh it did?

HOROWITZ: I would imagine so. I was doing the same thing in senior high with the school paper.

BAHR: Was this the only sport activity you were involved in? Were you involved in any other sports other than this Wolves club?

HOROWITZ: This was devoted to finding a way to have an athletic experience, I guess, which--to me--was important, as I had mentioned earlier.

BAHR: Well, it's a great story.

HOROWITZ: I can't remember any other.

BAHR: I'd like to move on, just briefly, to your service in the United States Air Force from 1943-1946. So you were twenty years old. How did it come about that you were in the air force?

HOROWITZ: I started out in the infantry. UCLA had an ROTC [Reserve Officer

Training Corps] program, and I was in the ROTC program.

BAHR: Were you drafted or did you enlist?

HOROWITZ: I went into the service through the ROTC program and the service involved infantry, coast guard, navy, whatever it was.

BAHR: How did you move from infantry to air force?

HOROWITZ: I got into the infantry [and] decided that the infantry was not the best place for me to be. I mean, just less interesting. I petitioned for a transfer out of the U.S. Army infantry to the U.S. Air Force aerial navigation program. So I became a radar bombardier. I got there because--I laughingly put it to people afterward--I didn't like mud to sleep in. There was a lot of truth to that.

BAHR: I imagine this required special training.

HOROWITZ: Well, the air force provided it.

BAHR: Yes. What rank did you achieve?

HOROWITZ: Captain.

BAHR: Where were stationed?

HOROWITZ: Various places in the western part of the U.S. We were out practicing navigational techniques and they sent us out over the desert or out over areas not very well developed. I assume there was a reason for that. They didn't want one flying around trying to learn to fly a plane above somebody's home.

BAHR: Were you stationed overseas at all?

HOROWITZ: After the war.

BAHR: After the war. Where was that?

HOROWITZ: I went to Okinawa.

BAHR: Oh, you were? How long were you on Okinawa, approximately?

HOROWITZ: At least a year.

BAHR: One year. One year, probably.

HOROWITZ: There's something very mysterious about the whole thing. As we were getting packed up to return to the U.S. in a U.S. troopship anchored off, where--?

Manila, maybe it was, or Naha in Okinawa. Just the seeming oddity of-- People in our units were packing up and going back to the territorial U.S. to be discharged and, meanwhile, you had people in the mainland who are getting themselves organized to come across the Pacific the other direction. We were in that second group, I think.

BAHR: For what purpose were you sent to Okinawa?

HOROWITZ: It was not, fortunately, to drop bombs in anger. I never dropped a bomb, a hostilely-intended bomb. That doesn't mean I did drop hostilely-intended bombs-- I was freed of the responsibility--on these flights that we would go on--of deciding which populated community would be blown up by us. That's what it came down to. I must say, as I listen to myself answer these questions, I say to myself, "This was no grand gesture on your part to save humanity, and therefore you wouldn't participate in bombing." I went where the air force sent me, and I learned what the air force wanted me to learn.

BAHR: Of course. So I'm assuming from what you're saying that the action that you

saw, the combat that you saw, was in the Pacific theater.

HOROWITZ: No, I didn't see combat in the Pacific.

BAHR: Oh, you did not.

HOROWITZ: No. Fortunately, I was a noncombatant. Not by choice. Again, we were never ordered into a place to do something that had live ammunition connected with it. Fortunately, that was behind everybody.

BAHR: Let me ask again-- Let me clarify that I understand. You evidently went to Okinawa when the war was over in 1945. Probably 1945-46. Am I correct?

HOROWITZ: Yes, I can't get more specific. Yes, that's generally correct.

BAHR: What was the purpose of sending you to Okinawa?

HOROWITZ: Oh, to complete the training cycles we were in.

BAHR: I see.

HOROWITZ: I imagine we had people who were two-thirds of the way into the program and they don't want to lose that expertise. That must have been the reasoning.

BAHR: Is there anything else you'd like to say about your time in the service?

HOROWITZ: At one point in my service, I was asked if I wanted to apply for a transfer back to the U.S. Army-infantry. It would carry a commission, which was an important talisman for young men my age and a little bit older or a little bit younger. Maybe you can help by amplifying the question a little bit.

BAHR: When you were asked if you wanted to return to the infantry, and I'm assuming this was with a superior rank, what was your response?

HOROWITZ: I've tried to think these days about paths not taken, or whatever the phrase is.

BAHR: Right. That's the phrase.

HOROWITZ: And one path I chose not to follow up on any further was whether I could get approved as a commissioned captain going from the air force back to the infantry in the organization of the U.S. Army.

BAHR: Why was that? Why did you not take that path? Do you know?

HOROWITZ: Well, I've always laughingly said to myself, and to anybody who listens, that the U.S. Army was better off with my not going through officer training camp.

BAHR: Why was that?

HOROWITZ: Because I think was singularly cut out not to be an infantryman or other similar disciplines that carried commissions with them. Everything for a lot of people in those days floated around the concept of the commission, to become a commissioned officer in the officer corps.

BAHR: Oh, yes, of course.

HOROWITZ: I just never would have been a good contributor in an organized military unit.

BAHR: Why is that?

HOROWITZ: I don't know. I was hardly a rebel, nothing like that. I mean, I wish I could look back on it-- It would be so clean to say there was something that happened

on that Tuesday--

BAHR: Oh, no.

HOROWITZ: --and after our word, I began to think about it.

BAHR: No, no, no. It doesn't work that way.

HOROWITZ: Yeah, well, that helps me. [laughs]

BAHR: No, no. It doesn't work that way. Now, it's interesting though that you were very aware at the time that this wasn't the right situation for you. Did you have, at that time-- Can you recall other plans for your future, for your professional life?

HOROWITZ: I was already assuming I was on my way to law school.

BAHR: Oh, you were?

HOROWITZ: But that did not distinguish me from a lot of other colleagues whom--

BAHR: Can you recall when you began to think about law school? In high school?

HOROWITZ: Probably, in a very vague way, junior high.

BAHR: My.

HOROWITZ: I don't mean to have that sound like I had special insights into myself.

BAHR: But that's fairly young to be thinking about law school.

HOROWITZ: Well, no. I can remember an episode one day--I don't know what triggered this--but I ran home to tell my mother that I'd figured out what I wanted to do after, it must have been after, college. It would be unthinkable for me not to have gone to college.

BAHR: So one day you went home to your mother, and said you had realized--

HOROWITZ: I know what I can do now. I can go to law school and have that as an always present background to authorize professional activities I could engage in.

BAHR: I'm thinking that this was very young to be realizing--

HOROWITZ: Yeah. It sounds that way to me as well. I mean, I can't help but feel as I say these things that there's been a polished run-through and rehearsal--

BAHR: No, no.

HOROWITZ: --that there has not been.

BAHR: No, it's not coming across that way. But people do sometimes make these decisions at a young age. So you did then go on to college--

HOROWITZ: The main thing I would say about going on to college is that that's what my parents expected.

BAHR: Yes.

HOROWITZ: My mother in particular.

BAHR: Yes. I wanted to ask you that. Your parents--

HOROWITZ: So it wasn't as if the world was a blank slate for me, and that I was figuring out what I'm going to write on that slate, as if that's going to control what happens in the future. It wasn't that at all. Somewhere a few years back we came across old letters. There were a couple of letters. Would it have been my mother writing--? In any event, it showed the emphasis in our house on academics and the assumption that there would have to be graduate training. I had concluded that one way to do that is professional school, or law school. What was the other way? Oh,

yes, and the pleasure I found in discovering that people earn their living as journalists. Because I was on this business of the high school newspaper and the junior high paper. I thought I was going to choose. I mean, I would always have the law degree and whatever training you get as a journalist.

BAHR: Really?

HOROWITZ: And I would put those together and that was my security blanket, I guess, for describing what I was expecting to do.

BAHR: And you made this decision in junior high school?

HOROWITZ: I know I wouldn't say I made the-- The decision was made for me.

BAHR: But you selected these two disciplines, evidently, journalism and law school, right?

HOROWITZ: What do they have in common that attracted me? I don't know. And I agree with you, it's a little stunning to me that I'm dredging up explanations for--

BAHR: This is part of the process. It always surprises people when they begin talking about their life history.

How do you explain that your parents were so academically-oriented?

HOROWITZ: That's beyond my power to explain. A lot of it has to do with the Jewish community, whatever academic heritage I brought with me. It's either that specific or non-specific.

BAHR: Did they have the same aspirations or expectations of your sister?

HOROWITZ: I think not. My sister would say that they did not have similar

expectations. Maybe I've never wanted to probe that. I don't know.

BAHR: And we don't need to. So then, did you get a degree in journalism?

HOROWITZ: No.

BAHR: I didn't think so.

HOROWITZ: But, interestingly enough, as it turns out, Adam got a bachelor's degree in journalism from the last class at [University of California] Berkeley's-- I don't know if they called it the school of journalism.

BAHR: Yeah. They've closed down journalism schools.

HOROWITZ: Somewhere on the wall here we have a journalism certificate. And that completed the pattern for me.

BAHR: Right. Closed the circle. But you did get a bachelor's degree from UCLA. In what discipline was that?

HOROWITZ: Political science.

BAHR: Oh, political science. Well, that was a good basis for a law degree.

HOROWITZ: Oh, yes. Just like the kids who wanted to go to medical school were all in the first year of chemistry.

BAHR: Right. Can you recall any of your thinking why you selected law, for example, and not medicine or business?

HOROWITZ: I doubt if there was ever a turning point when the answer to that question became this or that. It was just part of the milieu in which I grew up. I don't know what more one can say.

BAHR: Did you have exposure to people who were in the law field?

HOROWITZ: That made it even more enticing. I can remember, for some reason or another, having a meeting with a man who was active in affairs of the temple, but who also--

BAHR: This individual was involved in law?

HOROWITZ: Oh yes, yes, yes. I remember afterward, we were commenting, maybe within the family, "Gee, that was so and so. He's a lawyer."

BAHR: Ah, and with a great deal of respect?

HOROWITZ: Uh-huh.

BAHR: Since you mentioned the temple, was your family orthodox? Conservative?

HOROWITZ: I would say my mother was orthodox. My father was, by today's labels, probably conservative. Those are the two.

BAHR: Were you bar mitzvahed?

HOROWITZ: Uh-huh.

BAHR: Was your sister bas mitzvahed? Did she have a bas mitzvah?

HOROWITZ: No.

BAHR: Okay.

HOROWITZ: That was a new phenomenon for me. I had never heard of it, and all of a sudden it was there.

BAHR: I know, it's fairly recent. Maybe the last fifteen, twenty years. Okay. Why did you select UCLA?

HOROWITZ: I think that was a simple one. The understanding was if I got into a University of California campus, and that really meant UCLA, the rest of them didn't exist for any purpose that would serve our family in Los Angeles. Why UCLA? It was an institution of quality; it was here in Los Angeles.

BAHR: And you lived at home?

HOROWITZ: And I lived at home. Yes.

BAHR: Can you recall any instructors during that period of your study at UCLA who were particularly influential?

HOROWITZ: I guess there were a couple of faculty members in political science or related fields at UCLA from whom I took courses. I can't remember specific discussions I had with them, but I know I had discussions with them. And they must have had a significant impact on my continuing on the path that somehow I'd stumbled into of preparing for law school.

BAHR: Do you remember their names?

HOROWITZ: I can remember one or two at high school. College is something else again. That's the luck of the draw on whose class you end up in.

BAHR: That's for sure. Then you went on and earned an LL.B. at Harvard [University] Law School. What was your area of specialization?

HOROWITZ: At that time, at least, there was no working concept of a specialization within one type of law or another type of law. That has changed. In law schools these days, you have graduate programs; they build cores of experts in fields that the

students might be interested in.

BAHR: But in your time, the instruction was more general? Is that what I'm hearing?

HOROWITZ: Well, you needed eighty-seven units, or something like that, of completed courses. It was up to you to tote up the eighty-seven and find where you're going to find them and take a program that will get you through what you found.

BAHR: Why did you select Harvard?

HOROWITZ: Because, to paraphrase a statement I made in another context, "Why did I select Harvard?" The real answer to that question is because it would give so much pleasure to my mother.

BAHR: Is that right?

HOROWITZ: Uh-huh.

BAHR: Did she recognize this?

HOROWITZ: Oh, I think so. I think so.

BAHR: And it did give her pleasure.

HOROWITZ: It did. [laughs]

BAHR: Why would Harvard give her so much pleasure?

HOROWITZ: Because of the academic achievement implicit in being admitted to Harvard. One of the high points for my father was after the war, while we were waiting for a response to my application at Harvard. My father had to make a business trip back east, and while he was back there, he decided to go up to Harvard. He had never been there. And he did that and tracked down the faculty member who was

chair of the admissions committee.

BAHR: Oh! Good for him.

HOROWITZ: And the professor got out--

TAPE NUMBER: I, SIDE TWO

SEPTEMBER 9, 1999

HOROWITZ: The professor, in talking with my father, said, "Well, your son's record looks strong enough. I can't tell you he's going to be admitted now, but he makes a strong case for admission." My father got such a kick out of telling that story because he would say, "I'm the one who got him in there." [mutual laughter]

BAHR: Well, that is a good story. Do you recall any professors at Harvard that were particularly influential for you?

HOROWITZ: Well, that's another matter, because on that faculty at that time, you could find the names of giants in American legal education. I could not do an intelligible job of singling out one as compared with all the rest.

BAHR: Who were some of these giants, do you recall?

HOROWITZ: Well, the man who was head of the admissions committee with whom my father talked was named Seavey. Warren [A.] Seavey. There must be ten of them I could name.

BAHR: As you were selecting the courses to fulfill your eighty-seven, or however many units, did you find yourself leaning toward any certain area of law?

HOROWITZ: No. That's because of the notion of specialization wasn't on one. The [State Bar of California] has far more recently created the whole concept of specialization. You can now take a special mini-course and pass an examination, and

you can then put on your letterhead something like, "LL.B., specialist in whatever."

BAHR: Really?

HOROWITZ: Yeah.

BAHR: After Harvard, you got an LL.M. at the University of Southern California [School of Law], is that correct?

HOROWITZ: Uh-huh.

BAHR: Why did you then select USC [University of Southern California]?

HOROWITZ: When I got out of law school-- Let me be sure what we're talking about. This is the beginning of my appointment at USC?

BAHR: No. You got your LL.M. at the University of Southern California, is that correct?

HOROWITZ: Yes.

BAHR: Why did you select USC for that study?

HOROWITZ: Because I was at USC. I was teaching there, and my wife-to-be was a student there.

BAHR: Oh.

HOROWITZ: So I was not seeking out a specialization. It was fitting into an administrative pattern, without suggesting in any way that that was a single-minded goal that I was achieving by that. That whole affair with the master's degree looks peculiar to people. I was having difficulty the other day remembering any detail about it, but it is very odd to get a graduate degree from the department in which you are

teaching.

BAHR: How did this come about that you were teaching there?

HOROWITZ: I came back to Los Angeles when I didn't get the job I wanted out of law school. I came back to L.A., and that's where it all started.

BAHR: What was the job that you wanted that you didn't get?

HOROWITZ: Clerking on the U.S. Supreme Court.

BAHR: Ah. I see. Yes. So you returned to Los Angeles and began looking for teaching positions?

HOROWITZ: I'd always thought I wanted to be a teacher, not a practitioner of law.

BAHR: Oh, is that right?

HOROWITZ: Uh-huh. So that's the explanation, pure and simple.

BAHR: So you were teaching at USC. And what were you teaching?

HOROWITZ: One time or another I was teaching property [law]. I think constitutional [law]; I may be wrong in recollecting that.

BAHR: After you earned your LL.M., then you went back to Harvard law school for your S.J.D. Is that correct?

HOROWITZ: That's correct. 1967, I think.

BAHR: And still, there was no area of specialization.

HOROWITZ: By the time you get to the doctorate, automatically you've got a goal and an academic attainment.

BAHR: And what was yours? Your goal?

HOROWITZ: What the faculty was looking for in a dissertation would be research capability, analytical ability-- What else?

BAHR: That's quite a lot. What was your dissertation?

HOROWITZ: That was another relatively odd aspect of my career as compared with others. I didn't have a topic for a dissertation. I attended a number of the courses that I was forced to attend, many of them seminars in the law school. I used to get a great kick out of that because here were these teachers whom I respected and now it was a matter of having a seminar with that person. It could be a very rich experience.

BAHR: Oh, I imagine.

HOROWITZ: But that's not the question. I haven't answered the question.

BAHR: How did it come about that you didn't have a topic?

HOROWITZ: Because, at least at that time, a law school didn't require it.

BAHR: I see.

HOROWITZ: I wrote several research papers. It was as I was working on these research papers and at some point in a quantitative and a qualitative sense, I provided written material-- My work product--

BAHR: Well, I'm going to jump ahead here just a little bit, because this aspect of your career is so interesting to me. I noticed that when you were teaching at UCLA [School of Law], you did emphasize the Fourteenth Amendment [to the United States Constitution]. You did focus on the Fourteenth Amendment in teaching and writing. Am I right?

HOROWITZ: Yes.

BAHR: Now, did that begin when you were in Harvard--your interest in the Fourteenth Amendment?

HOROWITZ: I don't know, that's an interesting question. Without doing research about it, I was satisfied-- Is the question, "How did you happen to get interested in civil rights?"

BAHR: Yes. That's exactly the question.

HOROWITZ: That was an offshoot of the community I lived in and the place I worked.

BAHR: By the community that you lived in, what do you mean?

HOROWITZ: The Jewish community of Los Angeles. I used to be--I can't say active--involved in activities of one or another of the agencies that make up the Jewish Federation [of Greater Los Angeles].

BAHR: I see.

HOROWITZ: Again, there just seems to have been something inevitable.

BAHR: A natural thing for you.

HOROWITZ: For a graduate of a law school, a Jewish young person, it almost was automatic that you'd expect that person to end up within the confines of one or another organized program. The thing they could contribute is legal expertise, and that's what I was doing. So there were several topics that I got interested in and worked with committees of the federation.

BAHR: You've raised an issue that I would like to explore just a little bit, and it's a sensitive issue, that is, being Jewish at UCLA. In doing our history of UCLA, we have explored this with other people. Did you observe any anti-Semitism?

HOROWITZ: That's where this effort we're engaged in gets hairy, doesn't it? Let me try a couple of anecdotes, at least to get started. When I got out of law school, I came back to Los Angeles and began interviewing law firms. I talked to the UCLA and [U]SC faculty involved in appointment of faculty members-- The most vivid memory I have of that time was going to the office of one of the senior partners, managing partner, of one of the giant, highest-quality law [firms] and I went through their hiring procedure. I was interviewed by x number of people and whatever. And the man I have in mind said to me, "Well, you have a strong record. You should certainly be successful at whatever you're going to do, but I want to make the suggestion to you that you go to Loeb and Loeb [LLP]. You will fare far better there than here." So there was part of an answer to your question.

BAHR: Yes. Did you ask him why or did you just--

HOROWITZ: No.

BAHR: You knew why.

HOROWITZ: I look back on that moment in time and say to myself, "If you had had the courage or the wit to pursue that matter, it could have made a difference." Because the experience evaporated. It was a tightly-locked secret of that law firm member and of me. That's the one event that I can point to specifically as illustrating encountering

anti-Semitism in my own history.

BAHR: That was a law firm. Did you encounter any anti-Semitism at UCLA?

HOROWITZ: No, I don't think so. I very carefully picked out this example I just gave you, because I was witness to that. So I'm not expanding beyond what I knew to my own knowledge.

BAHR: Right, right. Let's just back up one step. How did you happen to come to UCLA to teach? I don't think we covered that.

HOROWITZ: Let's see. That's when we came back from Washington, [D.C.]. If you wanted to be a law teacher in the Los Angeles area, there were two law schools you'd want to be affiliated with as a faculty member: UCLA and USC.

BAHR: But you were at USC. Why did you not continue with them?

HOROWITZ: I can't remember the exact reasons, but I must have felt that my own advancement would be enhanced by moving around. I mean, that's a common thing to do in the academic world, to go from institution to institution. But it was not hard for me to cut ties with Los Angeles. That's what that was all about.

BAHR: Now when did you retire from teaching? I don't believe I have that.

HOROWITZ: Well, my official retirement date in the University of California was 1990. July 1, I guess, 1990, or June 30th.

BAHR: But did you not retire from teaching before that? Or did you teach up until 1990?

HOROWITZ: I think the latter. We'd have to sit down with a piece of paper and a

calendar.

BAHR: All right. And here is where I noticed the emphasis on the Fourteenth Amendment. You wrote and published a book with Kenneth L. Karst, *Law, Lawyers, and Social Change* [:*Cases and Materials on the Abolition of Slavery, Racial Segregation, and Inequality of Educational Opportunity*]. Who is Kenneth L. Karst?

HOROWITZ: He is a next-office neighbor of mine throughout the time I was at UCLA law school. Ken and I did a good deal of work jointly, so there are items in the published world of legal published academic work with the two of us as joint authors. It used to be great fun. Time just passes by, I guess. We haven't done joint research and writing for some time, but there are a satisfying number of contributions that we thought were worthwhile.

BAHR: Now, I understand that there was an experimental course on which that particular book is based.

HOROWITZ: *Law, Lawyers, and Social Change*, yeah. There's a good example for you of what we'd been nibbling away at from outside. If you have tenure in the law school you would want to be tenured in-- A faculty member in a law school, particularly in a socially active contemporary problem-- If you're a law school faculty member, you have the opportunity to meld your interest-- In my case, for example, civil rights or civil liberties--plus contribute to filling out their law school curriculum. There's no better match than when you get a teacher who is enthused about a particular subject area. That's going to slop over--

BAHR: And help the curriculum.

HOROWITZ: Yeah. I paused there because I don't want that to sound too self-serving, I guess.

BAHR: Don't be concerned about that. This is the concern of everybody who does these interviews. They don't want to sound self-serving. Just try not to be concerned.

HOROWITZ: I accept that. I'm pleased to hear your sensitivity about that.

BAHR: Now, I understand that this experimental course had a great deal of faculty support, for example, from Murray [L.] Schwartz, Richard [A.] Wasserstrom, Dean Richard [C.] Maxwell. How did that come about? Maybe I should ask you why they were so supportive of this course.

HOROWITZ: Well, there was a challenge. What the law school curriculum of the day should reflect, what it should include-- Because there were calls for activism within colleges and universities. Faculty members in law schools were being challenged to come up with something legally relevant in areas that might be of interest to them. For me, the course in law, lawyers, and social change was a way to respond to a need for an introductory course. We put it in with effrontery. We put it in as a required course of the first six months of the first year of law school. It was introductory to the study of law. That all was bits and parts-- We wanted to have a course in the first year that exposed the first year student to the legal process at work.

BAHR: I see. And how the legal process related to social change?

HOROWITZ: It's not quite that easy. I always have had to keep in mind, I'm not a

professionally trained sociologist or psychologist, so I have no authority to be pontificating about what the first year of law school ought to contain.

BAHR: Yeah. That's an important decision.

HOROWITZ: But it was an opportunity to get into the legal process, and that meant having first year students study how the law has been used to bring about social change.

BAHR: Was this a one semester course?

HOROWITZ: Yeah. One semester. That was a joint work of Ken and me.

BAHR: Right. Do you know, is this course still being offered?

HOROWITZ: No.

BAHR: Do you think this was--this is sort of a leading question, but this type of course--a consequence of the turmoil of the sixties?

HOROWITZ: Yes.

BAHR: Yes. Definitely. How was this course received by the students?

HOROWITZ: I don't think we had the full explanation of student attitudes that sometimes you get when you have teaching evaluations filled out by students. I think some students were baffled.

BAHR: Oh, were they?

HOROWITZ: Because there were none of the traditional anchors to hold on to. This was a funny kind of law school course. It was not a substantive topic such as torts or procedure or criminal law or what have you.

BAHR: Oh, I see.

HOROWITZ: This tried to look at the entire legal system and see how the legal system has functioned and can be made to function from the perspective of protection, advancement of constitutional rights of the people.

BAHR: I would have liked to have taken it. Did you get feedback from students that they were baffled?

HOROWITZ: To some extent.

BAHR: You did.

HOROWITZ: Yes. I think we had--

BAHR: Did they actually say, "I'm baffled. I don't know what's going on here."

HOROWITZ: It didn't occur that much within the classroom at that time. It occurs with far more frequency today than it ever did in the past. And the law schools are directly reflective, I guess.

BAHR: How did you recognize that the students were baffled?

HOROWITZ: Conversation after class; the students' show each year where they parody a classroom or parody a particular faculty member or whatever. People had great fun parodying the material in that book, because it was so sprawling, so non-self-contained, that you could see that students felt very frustrated with it. I had a very gratifying report from Lizzie [Elizabeth Marmorston Horowitz] the other night. I don't know how it came up, but she said that at work that day she had a talk with a young man, a Mexican American, who was in the first year at UCLA law school and he said,

"I want to tell you how important *Law, Lawyers, and Social Change* was to me in coming to law school." He said to her [that] he expected the law school to be resistant to his presence.

BAHR: Oh, because he was Mexican?

HOROWITZ: I assume that's what he was saying. And how comforted--it's a funny word to use here, I guess--he was with that course, because it helped him explain why he was there and was getting out of it what he hoped to get out of it.

BAHR: That's a great story.

HOROWITZ: Yes, it was.

BAHR: You know, I think that's a very positive place to end for today.

TAPE NUMBER: II, SIDE ONE

SEPTEMBER 15, 1999

BAHR: Dr. Horowitz, I want to just spend a couple of minutes filling in a couple of gaps from our last interview. Now, as we were speaking last week, you mentioned that you came back to California from Washington. I'm presuming that's Washington, D.C.?

HOROWITZ: Yes.

BAHR: What were you doing in Washington, D.C.?

HOROWITZ: Well, I was the associate general counsel of the Department of Health, Education, and Welfare [HEW].

BAHR: Oh, I see.

HOROWITZ: We were in Washington three years, I guess. Something like that.

BAHR: During those three years, did you have any other positions or was this the only position you had during those three years.

HOROWITZ: No, that was full-time position in the government.

BAHR: I see. And what caused you to leave that position?

HOROWITZ: I guess when we went to Washington, we always knew that our plans would include returning to Los Angeles and that was just part of the script we had for ourselves when we went to Washington.

BAHR: I see. You also mentioned that the job that you really wanted was clerking in

the U.S. Supreme Court.

HOROWITZ: Oh, I'm glad you-- Go ahead, you make your point and then I'll make mine.

BAHR: No, you go ahead.

HOROWITZ: No, I was going to ask you not to ascribe any such statement to me. It's just too cute. I was not in a national competition for a position in HEW, for example.

I really can't say that my priority was to clerk on the Supreme Court. That's the goal of every single law student to be able to do that. And it just doesn't come out right to say my--

BAHR: Well, somehow I overstated the--

HOROWITZ: It was more a casual, throwaway line by me [that] I discovered when I read back over what I had said.

BAHR: Okay. I'm glad we clarified that. Now, at the end of our interview last week and after I had turned--

HOROWITZ: Is there going to be anymore to talk about with regard to that?

BAHR: Is there something more you'd like to talk about?

HOROWITZ: No, no. I just want to be sure that the text doesn't end up identifying me with somebody who is saying, "My first priority was to clerk on the Supreme Court."

BAHR: No. I think we've clarified that.

HOROWITZ: It's a pretty stupid remark when you reflect about it. [mutual laughter]

BAHR: No. I think we've clarified that.

HOROWITZ: Okay, okay. [tape recorder off]

BAHR: Last week, after we had turned the tape recorder off, you made a very eloquent statement and, if I may, I'm going to repeat it to you. You said to me, "I felt privileged to be tenured in a law school of quality." And this is relating to why you were so attracted to teaching rather than working as an attorney in a law firm. Would you like to elaborate on that? I think that's a strong theme in your profession, your attraction to teaching.

HOROWITZ: I'm not quite sure where to start in response. What again is it that I said and then we'll take it from there?

BAHR: "I felt privileged to be tenured in a law school of quality." And I think you alluded to being able to make a contribution in that way, by teaching.

HOROWITZ: What I'd like to do is erase that line about a law school of quality. That has a preciousness to it also, which just doesn't come out right when you hear it read back.

BAHR: Okay.

HOROWITZ: There's not that much of a point to be made. I did not have, as a goal, getting located in Washington, D.C. and clerking for the Supreme Court. It's silly to have a goal like that because it's like a bolt from the blue if that should occur.

BAHR: Okay. I'm glad you're clarifying that.

HOROWITZ: We came back to Los Angeles primarily because of family

considerations. My parents [Louis Horowitz and Clara Zimring Horowitz] had not had a lot of time with their grandchildren [Adam Jonas Horowitz and Lisa Horowitz Schwartz] and so we felt a little guilty, I guess, going off to Washington when that opportunity arose. It deprived them of having the grandkids around.

BAHR: Well, they're fortunate that you thought that way. Can you tell me why teaching was more attractive to you than working in a law firm as a practicing attorney.

HOROWITZ: I used to have a very flip response to that question. In conversations that I would be in, etc., where that issue would arise-- It's an opportunity to be-- It's hard to describe. Why was I attracted to teaching? I don't know quite where to start with this.

BAHR: It's a big question. Maybe the question was made perhaps a little too abstract. But clearly you enjoyed teaching and I can imagine you enjoyed research and writing also.

HOROWITZ: That's it. I mean, I like the life that a position in a law school would be more likely to lead to, [rather] than going into law practice. There would be less satisfactions there for me, I would think.

BAHR: I think that's a good response. I would like to move on now to a series of events in the history of UCLA that were very dramatic, and that is the Angela [Y.] Davis case and your role in these events. Let me, just for the record, state the context here. In June of 1969, the dean of humanities, Philip Levine, offered Angela Davis a

temporary, part-time appointment.

HOROWITZ: I don't think it was part-time. I was interested that you had the phrase part-time there.

BAHR: It was not part-time?

HOROWITZ: I think she was a full-time, active, assistant professor, as far as I know.

BAHR: Okay, good. I'm glad you clarified that.

HOROWITZ: It was clearly temporary.

BAHR: Clearly temporary. As a professor in the Department of--

HOROWITZ: As an acting, assistant professor.

BAHR: Acting, assistant professor in the Department of Philosophy. Good.

However, a month later, newspaper reports identified Angela Davis as being a member of the Communist Party. She was asked by the UCLA vice-chancellor, David S.

Saxon, if she were a member of the Communist Party, and she replied in a letter to

Charles [E.] Young: "At the outset, let me say that I think the question posed by Mr.

Saxon is impermissible. This on grounds of constitutional freedom, as well as

academic policy. However, and without waiving my objections to the question posed

by the answer, is that I am now a member of the Communist Party." Then the [Board

of] Regents [of the University of California] voted to terminate her appointment. The

first step that Angela Davis took following the cancellation of her appointment was to

go to the UCLA Privilege and Tenure Committee. Now my question to you is, how

effective was the Privilege and Tenure Committee in resolving this issue?

HOROWITZ: I don't know that you can pick a moment in time and then say from, that time on there, was felt the impact of having gone to the Privilege and Tenure Committee.

BAHR: Okay, you're right. Let me rephrase the question. Was there, in the structure of the university, a mechanism to enable Privilege and Tenure to resolve this? Was it possible for Privilege and Tenure to resolve this situation?

HOROWITZ: Well, the ultimate resolution could come from only one place in the university, and that's the regents. The Privilege and Tenure Committee of the Academic Senate at UCLA has no independent authority which governs in all situations where this issue might arise.

BAHR: Good. That's what I was getting at.

HOROWITZ: I don't know that the Privilege and Tenure Committee-- I don't what experience it had in related matters over the years.

BAHR: Okay. This situation with Angela Davis raised a number of significant issues that the university had to deal with. What would you say was the primary issue here?

HOROWITZ: Well, there was one dimension of it which had to do with the First Amendment [to the United States Constitution]. Her rights allegedly being infringed.

BAHR: Let me ask you this. It appears to me that one of the major issues was academic freedom, and there was, according to the research I've done, a tremendous polarity about that issue. For example, the president of the University [of California], Charles J. Hitch, said, "Freedom of thought and expression is our lifeblood. It cannot

be rationed or diluted to fit the anxieties of a particular time." Now that's a very eloquent statement on one end. In opposition to him, the regent John E. Canaday, stated, "I think that academic freedom can become a farce when applied to people like Angela Davis."

HOROWITZ: Who was that who said that?

BAHR: John E. Canady, who was a regent at the time. This dramatic polarity-- My question to you is, how aware were the faculty members of this polarity? Or how aware were you of this polarity on campus?

HOROWITZ: Well, those were complicated times. I mean the Angela Davis case and the academic freedom issue were just part of what was involved. To a lot of people, what was being talked about here, as well, was the ultimate authority to run the affairs of the university, and the extent to which she--

BAHR: Well, let's follow up on that. You've raised a major issue here. Who has the ultimate authority to run the university?

HOROWITZ: The way people were viewing that based upon past experiences was to what extent-- [pause]

BAHR: To what extent the regents can make these decisions?

HOROWITZ: Or the faculty through the Academic Senate. To a lot of people, the Angela Davis case was a governance issue, among other things.

BAHR: A governance issue.

HOROWITZ: Governance of the university. The argument of the senate that, on

academic matters, senate views should prevail and others arguing that the regents were the source of all administrative authority within the university, by delegation from the regents--

BAHR: Yes. This is--

HOROWITZ: So it was a governance question. Which agencies have--I don't want to say power, that's not a very good word here--delegated authority to administer the university?

BAHR: This issue that you've just so clearly stated does emerge in the research and [in that of] your colleague, Kenneth [L.] Karst, who wrote to David [B.] Kaplan, who was vice-chair of the philosophy department. Dr. Karst stated that applying a political test for employment, as was done with Angela Davis, is not an authority that rests with the regents. He argued that if anyone had that authority, it would be the [California State] Legislature. Then Dr. Karst also argued, because the regents were relying on the 1940 and the 1949 resolutions making membership in the Communist Party a reason for not hiring someone, that those resolutions were violations of the First and Fourteenth Amendments of the United States Constitution.

HOROWITZ: That's looking at it from Angela Davis's individual rights, her rights as an individual within the university, and who is the ultimate declarer of policy that determines what her status will be. It's governance between the senate and the president and regents on the one hand, individual constitutional rights of Angela Davis with regard to freedom of speech, freedom of assembly, being able to be a member of

the Communist Party without that drawing in itself to her-- I'll start over again. There are two dimensions to thinking about Angela Davis's role at this stage in the history of the university. One having to do with vindicating, as she saw it, her individual rights of academic freedom under the First Amendment. And second, governance issues separating the administration from the senate and identifying, if that can be done, just what-- What we're trying to do is identify a truly grand plan where there were seemingly open issues on the side of the governance question, the clash of claims to authority between the regents on the one hand and the-- [pause]

BAHR: Academic Senate.

HOROWITZ: Yes.

BAHR: To me, this is a very clear focus on the issues and I think what I'm hearing is that it actually was a constitutional question. A question of violation of her rights, am I correct?

HOROWITZ: Uh-huh.

BAHR: Now my question is, How do you explain that people like Kenneth Karst and yourself saw this as an issue of violation of constitutional rights, and the regents, who had their own counsel, did not see this as a constitutional issue? How do you explain that discrepancy?

HOROWITZ: Well, I guess what they were taking about was a constitutional right to be a teacher in the University of California. Is there such a right that you're entitled to have enforced in your favor if you've been discriminated against on grounds of such

membership?

BAHR: And what is the answer to that question?

HOROWITZ: Well, that's the issue that, I guess, was not resolved in the litigation; the litigation never got that far. But that's one of the constitutional questions. Or that's the way some aspects of the constitutional questions were being raised here, in the context of individual constitutional rights.

BAHR: Let's talk for a moment about the litigation. There was a suit filed in October of 1969 in the [Los Angeles] Superior Court by your colleague, Kenneth L. Karst, et. al., and let me just state their names for the record. In addition to Kenneth L. Karst, there was David [B.] Kaplan, Douglas [G.] Glasgow, Webster [E.] Moore, and Harry [S.] Deutsch.

HOROWITZ: That was what? Five faculty members and two students--I think that's how it broke down.

BAHR: You're right. How did this litigation come about? Why these people? My research shows that the Academic Senate was very involved in this case and one of their actions was to call for legal action. I think my question is, what was the relationship between this case, brought by Karst, et al, and the Academic Senate?

HOROWITZ: It was a subcommittee, probably, of the Academic Freedom Committee at UCLA. I'm not sure if it was the Academic Freedom Committee that's referred to by name that way in these materials, or was it the Committee on Privilege and Tenure. I was surprised when I read about the Committee on Academic Freedom, because I do

not recall when the Committee on Privilege and Tenure became the agency it is now.

The Angela Davis case, I think, strengthened the role of the faculty in the dual governance of the university.

BAHR: Really? Let me ask you this, why was this case not filed by the Academic Senate?

HOROWITZ: Well, the Academic Senate itself had no legal right to anything, probably, at least not in terms of First Amendment rights of members of the Academic Senate. I think that's the answer to the question.

BAHR: Okay. Now, why Kenneth Karst, David Kaplan, Douglas Glasgow, and the two students? Do you recall why those five people filed the suit?

HOROWITZ: I think people were getting on the telephone to find out whether there were people who felt that this was an unconstitutional act by the regents and would want to join in the effort to channel the dispute out of the streets, into the-- Oh, I'm getting dramatic here about--

BAHR: No, this is fine. Into a legal system?

HOROWITZ: It was a way to bring order to what was then disorder. I don't mean physical disorder in the sense of marching in the streets. Not that, but--

BAHR: Well, one clearly gets the impression from reading this file that there was a lot of disorder.

HOROWITZ: Yeah. Well, it occurred to me as I was saying it that disorder can imply physical disorder and there can also be doctrinal disorder in that it's not clear who has

authority to do what. I was thinking more of the second of those rather than the first of those, I guess.

BAHR: Yes. This is also clear in the file. How involved were you in the litigation? In the Karst, et al, case?

HOROWITZ: Very much involved.

BAHR: In what way?

HOROWITZ: For a while there, I was kind of like a conduit between the senate committees and overall the senate Privilege and Tenure Committee and the administration. So I got involved in it because I was working with people on both sides, when you get down to it.

BAHR: So that's a significant involvement. Now, the Committee on Academic Freedom took several actions, one of which was to form an ad hoc committee to consider the legal aspects.

HOROWITZ: That was our committee.

BAHR: You were a member of that committee, right? Am I correct that you were chair of that committee?

HOROWITZ: Yes, I was. I was reading over that material that you sent. I discovered that there is so much of this that I'd simply forgotten.

BAHR: Oh, sure, it's been awhile. Now, there was a resolution by this ad hoc committee that was very controversial, and that was your appointment as an advocate.

HOROWITZ: That's something that I just don't remember. I mean, who was

proposing that I do that?

BAHR: Well, according to the research, it was the ad hoc committee, and that you were to appear as a friend of the court in any hearing by Privilege and Tenure that involved Angela Davis.

HOROWITZ: I don't know what our position was at that time. Were we observers on behalf of the senate? Were we active participants in the litigation in terms of the Academic Senate?

BAHR: Well, let me see if I can help you out here. The general counsel of the regents, Thomas J. Cunningham, protested the oral arguments and the briefs presented at a regents meeting by you, and there was another advocate, David [A.] Wilson from the political science department.

HOROWITZ: I never appeared before the regents, so I don't know what that reference would be to.

BAHR: Oh, okay. Let's move on to a memo that you wrote to Dr. David B. Kaplan, who was acting chair at that time of the philosophy department. In this memo, which I gave you a copy of, you answered some very sophisticated legal questions. I wonder where these questions came from.

HOROWITZ: This is what? You're portraying a list of questions that somebody's working through from beginning to end?

BAHR: Yes. One moment, and I'll give you a copy of it. [tape recorder off] We'll return to that question next week when each of us has the document in front of us.

Let me move on to the impact on the UCLA community. In an article in the *Los Angeles Times*, Charles Young, who was the chancellor of UCLA, was portrayed as having his job on the line actually, that his support of Angela Davis was going to cause him considerable loss of support. One administrator of UCLA, who was not identified in the article, said, "We're headed for a crunch. I'm terribly worried." Now, I've come across this again and again in the research: people were terribly worried. What were the fears? What were they worried about?

HOROWITZ: Some people were worried that the faculty was becoming too militant, and they saw the First Amendment as wrongly providing an umbrella for that kind of activity to take place on the campus.

BAHR: And what was the ultimate fear if the faculty became too militant?

HOROWITZ: I don't know. Untidy administration?

BAHR: Chaos.

HOROWITZ: Yeah. I'm thinking if we stopped there, there was such a signpost for us without getting deeply into the philosophy of the matter. Violating the First Amendment rights of a faculty member in an American university is a very serious proposition and, to a great extent, that's what the faculty at UCLA was responding to-- feeling that the violation of the First Amendment inevitably diminished the role of the senate in the administration of the university. That's just a repetition of something we talked about earlier. You've got far better questions than I have answers, I fear.

BAHR: No, no. Not at all. The Oral History Program at UCLA did some interviews

with David [S.] Saxon, who was vice-chancellor at UCLA at the time of the Angela Davis case, and he said, and I'm going to quote here briefly, "It was a time of enormous anger. An astounding amount of anger on the part of many people, many students, many members of the community. Anger was aimed in every direction, and there was tremendous confusion." He was concerned that anger and clarity don't go together; anger and confusion go together. Now, how aware were people on campus of this anger?

HOROWITZ: I can't remember what happened at what particular time during that academic year. But you had people marching across the campus, appearing at the chancellor's residence, I think, at one point. And there were a lot of people who felt that's just not the way you do business at a university. The university is a different entity than other kinds of public forums that may become involved.

BAHR: In what way is a university different?

HOROWITZ: More stringent administrative control. Less sensitivity to issues implicit in the First Amendment.

BAHR: Really? Is this something that you believe, that the university is less sensitive to issues of the First Amendment?

HOROWITZ: The fear that it would be less sensitive.

BAHR: I see. Yes.

HOROWITZ: I'm just trying to respond to David Saxon's question "What was getting people so upset?" And I think part of it was because the First Amendment and

academic freedom are intricately knotted together. A lot of people who ultimately became involved as supporters of the litigation, they saw the litigation as a way of vindicating the rights of faculty members. Who first had the idea to go to court? I don't know. That's just inevitable when you have an enterprise that has in-house lawyers in it the way the senate has the law school faculty.

BAHR: According to the research, there was a considerable amount of strain on collegiality. People actually were resigning their positions in protest over support of Angela Davis or lack of support. How widespread was this?

HOROWITZ: One of the most vivid memories I have is of a kind of cataclysmic meeting about the Angela Davis case of the Academic Senate in Royce Hall. As I remember, some substantial portion of Royce was-- I can't dredge a thought out of there.

BAHR: We'll come back to it. Now, am I correct that this suit brought by Karst, et al, resulted in a decision by Judge Jerry Pacht of the Superior Court. The ruling was that the regents forbidding employment of members of the Communist Party was not valid. I didn't state that ruling very clearly. But evidently this ruling invalidated the regents' authority to use membership in the Communist Party as a test for employment. Now, why didn't the case just end there then?

HOROWITZ: Oh, because the regents were determined to take it up on appeal, to get that decision of Jerry Pacht's reversed. That's what the litigation was about. Part of the relief sought in the suit-- The outlines of litigation based upon alleged violation of

the First Amendment--

TAPE NUMBER: II, SIDE TWO

SEPTEMBER 15, 1999

BAHR: When the recorder was not on, you were saying that supporting the litigation in support of the rights of Angela Davis was, for some faculty members, a significant stance.

HOROWITZ: Bringing the University of California into court in this fashion is a rather unusual thing to occur. You might note that Ken and the others who were the listed plaintiffs in the action, they were suing as California taxpayers to enjoin the use of tax monies to administer an unconstitutional standard within the university.

BAHR: I see.

HOROWITZ: Have you talked with Ken? Are you going to talk with him?

BAHR: I hope so.

HOROWITZ: Yeah. Well, you will get a really rich, rich memoir from him about any aspect of that that you're interested in.

BAHR: But that definitely clarifies something--that they were bringing a suit as taxpayers. Now, why that strategy? Am I using the correct word there? Was this a strategy?

HOROWITZ: That's the only way you could get into court, is to allege that your role as a taxpayer is being impaired in some significant fashion.

BAHR: And evidently this was, at least initially, a successful--

HOROWITZ: I think I'm correct on that, that it was a taxpayer's action.

BAHR: Yes, I think you are. Now, there are in the archives, boxes and boxes of letters about the Angela Davis case. These letters indicate that Charles Young was getting a lot of public pressure, even official pressure--from assemblymen, for example. One assemblyman said to Charles Young, "Your job and your facilities belong to the people, and it's time for you to realize that." Were the members of your ad hoc committee aware that Chancellor Young was getting this kind of pressure, even official pressure?

HOROWITZ: I doubt if you'd find anything published, for example, making some of these points, but there's no question that a lot of people felt the intensity of feeling that there was unconstitutional action going on here and something ought to be done about it. Particularly at a university, you don't let violations of the First Amendment deter you from following the path to truth within the university. Don't quote path to truth, that's not a very good phrase.

BAHR: No, I thought it was. I was just going to compliment you on it. These letters also--

HOROWITZ: Let me add one thing with regard to Chuck [Charles E.] Young. My own personal view is that he acted quite courageously in that whole Angela Davis affair. He, in that role, was a protector of individual or constitutional rights, which is what the lawsuit was about, and he deserves a lot of-- I want to say credit, but it's not getting credit for something. He was trying to bring all the sides together on this.

Some of the regents spoke in not very nice terms about him during that period. I would just urge that you think about finding whether there is a theme in what you're learning in these interviews and reading about the role of the chancellor here, because that's part of the history of UCLA, the campus's reactions and responses during that period. And he was a publicly quite outspoken supporter of the litigation.

BAHR: He was. Yes.

HOROWITZ: Well, from his point of view, it would get the situation clarified as quickly as possible. We faced the possibility of filing a lawsuit and then having to sit around for six months before we get it adjudicated. Six months is just a hypothetical example. So the question was, how do you get into court more quickly than having to wait your turn in line? There's something special about what you're dealing with.

What I'm trying to convey as best I can is that the chancellor--how can I put this?--was right there, supportive of the constitutional aspects of what the litigation was all about. And in the history of UCLA, that should be part of the record of information about his chancellorship.

BAHR: Right. I agree totally. Let me quote something that Chancellor Young said to a *Los Angeles Times* reporter in 1970, "At some point, there has got to be a time when somebody in this university stands up and says, 'I've had it. I've had enough. This is a real case of academic freedom. Because Angela Davis is an undesirable character to much of the public, the place where you find out whether the system works is in the tough cases, not the easy ones.'" So this is a clear statement of what you're saying, of

how-- Evidently, how clear he was in his stand? However, I could imagine that this position would make him very unpopular with some faculty members.

HOROWITZ: I don't know if that was a concern to any of the people who were active in the litigation. I don't know what category you're creating here. There were five named faculty members and students as plaintiffs in the action. I was with that group and then following conversations--the substance of which I can only barely remember now.

BAHR: Well, it's been a long time. How were you involved in that case? You've stated that you were a conduit.

HOROWITZ: Kind of like a liaison between both sides.

BAHR: Trying to reconcile the issues?

HOROWITZ: That would have been too grand of an objective. When people decide, "I've got to go to court to vindicate my rights," it's probably too late to have a smooth, gentle reconciliation.

BAHR: Define for me the two sides that you were the conduit for.

HOROWITZ: Angela Davis's claim that her First Amendment rights had been infringed and--this really is not in the litigation, is it?--the allocation of authority to govern the university as between the senate on the hand and the president and the administration and the regents on the other.

BAHR: Now, in your role as a conduit, how did this actually, physically take place? To whom did you talk?

HOROWITZ: We were living the Angela Davis case there for a little while. During that period, there was just a whole lot of informal discussion taking place.

BAHR: With Angela Davis?

HOROWITZ: No, I doubt that. No, she was represented by counsel, and all the discussions that would take place involving her presumably took place under the aegis of her counsel.

BAHR: Right. So you would be talking to members of the Academic Senate, right?

HOROWITZ: Uh-huh.

BAHR: And then, on the other side, with whom would you be talking?

Representatives of the regents or--?

HOROWITZ: No, they weren't part of the litigation--I mean, formal participants in the litigation. They were citizen observers like the rest of us.

BAHR: I see. Now, I'm going to step back just a step here. We were speaking of Chancellor Young and his, I believe you used the word "courageous" stance.

HOROWITZ: What I mean by courageous stand is-- I don't have any facts to settle this issue, but it seems to me--

BAHR: There are in the files letters to Chancellor Young that are full of vitriolic protest. I mean, one letter says, "If you dare to hire that Negro, racist, commie idiot, I shall personally sue you." This type of anger is very impressive in this file.

HOROWITZ: Well, another thing that's impressive is that it took the dispute into a courtroom. It was potentially a matter of street-- The dispute was being aired in the

streets and the litigation gave an opportunity to channel it into the judicial system where you can have a little more time and a little more sobering thought, etc., take place.

BAHR: How successful was that? Do you think it took the debate out of the public arena?

HOROWITZ: No.

BAHR: Were you aware--being so intimately involved with this case--of the level of vitriolic protest?

HOROWITZ: No, I would say not. I don't know how much vitriol there was in the atmosphere at UCLA. I mean, off the campus is something else again. You had politically--

BAHR: Well, there was definitely an impact on the wider community and that's, I think, what we've been exploring here.

But the impact on UCLA, I think, became very significant, very dramatic, when the American Association of University Professors [AAUP] censured the regents. Now, how was this AAUP investigation even initiated? How did this come about? How did the AAUP even get involved in this situation of the Angela Davis case?

HOROWITZ: Well, that's what the academic freedom activities of the-- It's not surprising that there would be an investigation. The AAUP exists as an agency to hear such allegations, to attempt to get resolution of whatever dispute there might be. So

the AAUP was always on the sidelines, so to speak. They were not plaintiffs, co-plaintiffs, in the litigation, but faculty members interested in the AAUP were-- [pause]

BAHR: Let me ask you this. What did this censure mean to UCLA?

HOROWITZ: Well, let's see. I think you probably can find an answer to that at the end of the report of the committee that recommended that this be done. They must have had specifics in mind as to what they thought ought to be done.

BAHR: They did. But let me reframe the question. What effect did it have on, let's say, the faculty? The faculty were aware that this censure was in place. Was there an effect on morale or?--

HOROWITZ: When was that done?

BAHR: Nineteen seventy-one.

HOROWITZ: What year was the lawsuit filed?

BAHR: Sixty-nine, I think.

HOROWITZ: I'm unable to comment authoritatively or knowledgeably about why some people moved in the direction of--

BAHR: In the chronology of this dramatic series of events, Angela Davis, in the summer of 1970, was charged with kidnaping.

HOROWITZ: I don't know anything about what occurred off the campus.

BAHR: There was a case in Marin County [California] and she was arrested and she went into hiding. But meanwhile, evidently the support for her constitutional rights continued on campus. I think my question to you is, how difficult was it to maintain

the support when she was a fugitive from justice? She was a fugitive from justice for six months for a situation that arose in a courtroom in Marin County. While she was a fugitive from justice, the UCLA faculty continued to support her case against the regents. My question is, how difficult was it to maintain that support when she was in hiding as a fugitive?

HOROWITZ: I have no opinion about that. The case is a university matter. It kind of went its direction, wherever it was going. Other contexts in which the same issues would be addressed were just different than-- [pause]

BAHR: In their determination to keep this case against Angela Davis alive, the regents declared, in October of 1969--the beginning of these events--that no credit would be given for the course being taught by Angela Davis. Of course, some UCLA faculty protested this. My question to you is, who has the authority to make this determination, whether credit is given for a certain course or not?

HOROWITZ: Well, the faculty would like that to be the faculty's authority. The administration would argue it's ultimately administrative authority that compiles units for a student and bestows a degree on a student. That's part of this issue of governance of the university--who is responsible for what? And I think the question you're raising is an illustration of the presence of that question. I really don't have anything to opine about with regard to that. I don't know. I can't remember in a step-by-step chronology what happened when with regard to withdrawing credit for the course and whatever other sort of things were done. I just don't recall.

BAHR: Well, it's not the step-by-step chronology that we're interested in; it's the issues that were raised. How effectively were these issues reconciled? We've talked about academic freedom and we've talked about credit for courses and the delegation of authority, especially. How effectively were they resolved by this Angela Davis case--all these significant issues?

HOROWITZ: I don't know. There was never an appellate court ruling on the First Amendment issue, as I recall. So in that sense, it's hard to take an idea or a theme or a policy argument and follow it through over time. I don't know where to find evidence about what people were thinking at the time.

BAHR: Right. I think probably what I'm getting at is that there seemed to be a lot of angst and concern on the campus and in the wider community. At the end of it all, what was resolved?

HOROWITZ: As far as I know, that did not lead to actions in other states to get similar provisions held unconstitutional. It's an interesting question. I don't know whether it was followed up by similar action elsewhere or not.

BAHR: Or even on the UCLA campus. Was the issue of delegation of authority clarified in any way?

HOROWITZ: Not authoritatively, I don't think so.

BAHR: No. But you did think--I believe you stated earlier--that the Academic Senate gained some strength through this.

HOROWITZ: Oh, I think so. I think it was a central point for the attention and

interest of the UCLA faculty from the time that first arose. Certainly, there was an increase in sensitivity to these issues.

BAHR: That's a significant thing to come out of this. Now, you may not be able to answer this question because nobody I've asked has been able to answer this question. I would like to know how it all ended. Angela Davis was offered a reappointment by the philosophy department in 1971, but evidently she didn't accept this offer. I just wonder how it all ended?

HOROWITZ: I'm not aware of any detail about an offer to her of another position. She is, I understand, now on the [University of California] Santa Cruz faculty. So there must be background to that, I guess, for a group of faculty in Santa Cruz to propose her appointment. That must have raised issues within the campus: Do we want to replay the Angela Davis case? What are we going to do here? The most important thing of that sort that occurred in the whole affair was Jerry Pacht's ruling. He enjoined the regents from giving effect to the policy statement about hiring members of the Communist Party on the faculty.

BAHR: I think you've put your finger right on exactly what the critical outcome was, and that was the Jerry Pacht ruling, this ruling that membership in any political party could not be a criterion for employment.

HOROWITZ: I don't know about putting the word "any" in there. That may make the statement too strong and just not demonstrable, as a matter of fact.

BAHR: You're right. All right. So membership in the Communist Party. We would

limit it to that.

HOROWITZ: That was what it was narrowly defined to cover. There was a U.S. Supreme Court decision a little while before the Angela Davis came up in California. The U.S. Supreme Court held that something that looked like our non-Communist employment standard in the University of California was being mirrored in New York. That's why we thought the constitutional issue in the case was easy. Because it looked to us as if the issue had been resolved earlier in a different forum involving a different plaintiff and a different set of issues.

BAHR: Well, this leads me back to a question I asked earlier. How is it then that the counsel for the regents didn't see this as a constitutional violation? If you thought it was easy--

HOROWITZ: Well, I mean, there are various ways to answer that question. One answer to the question would be, "Well, that's the whole point of having a judicial process in an adversary system." The court sits there as a forum to receive disputes and issue wise decisions about those disputes. What was the question?

BAHR: I was wondering, if it was so clear to you that it was a violation of constitutional rights?--

HOROWITZ: Why wasn't it clear to everybody else? Yeah.

BAHR: Well, to the regents, in particular.

HOROWITZ: Well, I guess sometimes we felt that way. This was a defense in the face of directly applicable U.S. Supreme Court doctrine. You don't very often get that

match of issue and powerful source of response to the issue that we had here.

BAHR: I think that's a very clear statement and probably a very good place for us to end today. I like that summing up.

TAPE NUMBER: III, SIDE ONE

SEPTEMBER 22, 1999

BAHR: I would like to begin today by going back briefly. Last week you mentioned that you were associate general counsel for the Department of Health, Education, and Welfare [HEW] for three years.

HOROWITZ: That's correct.

BAHR: And I believe that was 1961 to 1964. How did this come about?

HOROWITZ: You mean, my going to Washington, [D.C.] and HEW?

BAHR: Right.

HOROWITZ: Last time we talked, I referred to my father having gone to Cambridge [Massachusetts] and talking to the [Harvard University Law School] admissions committee chairman, and that turned into a very dramatic story about rescuing my application from the brink and everything. Now what was your question?

BAHR: How did the job with HEW come about?

HOROWITZ: Somewhat similar to the-- Lizzie's [Elizabeth Marmorston Horowitz] sister [Norma Marmorston Pizar] came to visit us in Cambridge-- Wait a minute, I'm getting all tangled up here now. Here the question was, why leave Los Angeles to go to Washington or how did that come about?

BAHR: Yeah.

HOROWITZ: It's the opposite of what we were talking about before.

BAHR: Let me ask it this way. How did you get this job at HEW?

HOROWITZ: How did I get the job? That's what I'm trying to focus in on. You see, it's a story again about family.

BAHR: Oh, is it?

HOROWITZ: Lizzie's sister was married to a man named Samuel Pizar, and he was a graduate student at Harvard, the way I was. I went from Los Angeles to Cambridge for a year plus of graduate work. It's an unusual thing. Law graduates don't have a routine path to follow to complete work for the doctorate. There aren't that many earned doctorates in the law. Things have changed a little bit now, because if you get out of law school, you get a JD degree and it's got that magic word "doctor" in it. There were funny little stories about people changing their business cards to get the doctoral reference right out in front. [mutual laughter]

BAHR: So you and Samuel were students at the same time at Harvard?

HOROWITZ: Yes. [tape recorder off] He had to be a graduate student in the law school at Harvard. He was married to Lizzie's sister. And when the [John F.] Kennedy administration was elected, Sam was in Washington. He got in touch with us and said, "How would you like to come to Washington to work perhaps in HEW or other places that are going to be talked about?"

I said to him, "Well, that sounds very interesting." It had never crossed my mind that I could get a position of that sort in a department like HEW. It was very satisfying, because substantively it was a slice of the federal programs that I found

most interesting and most socially important.

So Sam said, "Well, let me know." And he called back and said, "I've made some questions about what jobs are open."

"What jobs are the new cabinet secretaries filling now?"

And he said, "In HEW, they're looking for an associate general counsel. Would you want you want to apply for that?"

So I told him, "Sure."

I don't remember if it was a formal-- It was not a formal application process. But, in any event, I came back, I guess, for an interview in Washington. Sam and Norma were living in Washington at the time I came back and I ended up being offered that job at HEW.

BAHR: Okay. Let me ask you this, what was Samuel doing in Washington?

HOROWITZ: Sam is a survivor of the Holocaust.

BAHR: Oh, was he?

HOROWITZ: That's why family is intricately tied up in what we're talking about, because it was part of what the extended family was up to at that moment.

BAHR: That's interesting. Very interesting.

HOROWITZ: He was rescued, dramatically enough, by an American soldier.

Someplace these two were going to meet.

BAHR: I see where it's going.

HOROWITZ: But he was-- He got a job. I guess his first job may have been with a

UN [United Nations] agency. I don't remember that exactly.

BAHR: He must have been very young when he was rescued from the Holocaust.

Okay. So you then were offered the job at HEW. Now what were the kinds of federal programs that attracted you so much?

HOROWITZ: Well, they managed to squeeze into the title of the Department of Health, Education, and Welfare. Health referred primarily to the public health service and other medical research. The National Institutes of Health, that sort of thing fell under the domain of the secretary of HEW.

BAHR: And the issues that they dealt with that you thought were significant, what were they?

HOROWITZ: Well, the entire arena of federal public health programs. The Office of Education, which ended up in the Department of Health, Education, and Welfare under the Commissioner of Education as the chief administrator of those programs. And welfare, Social Security--both welfare programs. And administration of the annuity, retirement aspects of the Social Security Administration. That's why I leaped at that opportunity, because there wasn't much left outside HEW that I would have found as interesting and as satisfying. This sounds very mushy, I realize that.

BAHR: No, no.

HOROWITZ: But it was a significant experience for me to be involved in those programs in that fashion.

BAHR: Now, what were your responsibilities as the associate general counsel?

HOROWITZ: Well, every federal department is headed by a secretary, a member of the cabinet--

BAHR: What were your responsibilities?

HOROWITZ: Every cabinet department had an advisory attorney. That could mean a whole bunch of attorneys in very large departments. I can't expand on that.

BAHR: Now, in this department, was it a large staff of attorneys?

HOROWITZ: Let's see, what did we have? About seventy-five, maybe.

BAHR: Oh my word.

HOROWITZ: I think it was that many. Well, there were nine regional offices of a federal department like this, and they had two or three lawyers in each of nine regional posts in the general counsel's office.

BAHR: And what were your direct responsibilities?

HOROWITZ: That's hard to describe. The secretary of HEW and members of the secretary's work force--the civil servants in the Department of Health, Education, and Welfare--all of them had specific programs to administer. For example, the Food and Drug Administration was part of HEW. The lawyers tied into the Food and Drug Administration programs were legal advisors to the secretary. I can't place this chronologically in its proper time slot, but I remember a great fracas arose with regard to whether to destroy the cranberry crop.

BAHR: Oh yes, I do remember that.

HOROWITZ: Well, that was, if I remember correctly, [proposed by] Arthur [S.]

Flemming, who was the secretary of HEW at the time that this issue arose. One of the first things that the secretary needed in dealing with a problem like that was legal advice as to just, "What are your responsibilities, Mr. Secretary?" If you were responsible for the public health, that means you probably have authority, explicitly or implicitly, to order the destruction of food products. It's the lawyers then who would advise the secretary about his responsibilities in keeping the Thanksgiving safe for cranberries. There's not a whole lot of litigation in administering the Social Security Act, but there's a lot of legal advising.

BAHR: I would imagine. Yeah.

HOROWITZ: You get very difficult questions. At one end, whether an individual-- Oh, there's another point here that I was going to make. Well, let's move on.

BAHR: As we discussed last week, you left HEW to return to California, and that was primarily for family reasons, right?

HOROWITZ: Uh-huh. It was professional, too. I did not want to become-- [pause]

BAHR: Was there something about working for the federal government that you felt-- ?

HOROWITZ: Oh, yes. One of the things that was most interesting for us--that is for Lizzie and me--was to meet a whole new group of people who lived and worked in Washington or the surrounding areas.

BAHR: Oh, I can imagine.

HOROWITZ: And you'd meet someone and recognize that, gee, that person was in on

the New Deal, and strike up a conversation that would include exploring what it was like to be one of the draftsman of the Social Security Act. The lawyers are the initial draftspersons in putting together the legislative programs that go to the Congress.

BAHR: And yet, you say you left also for professional reasons.

HOROWITZ: Left HEW? Left law school?

BAHR: Left HEW and came back to California for professional reasons.

HOROWITZ: We were in Washington for three plus years, I guess, and my father was ailing. But most importantly--I may have mentioned this before--we felt that we had spirited away their grandchildren to go off to this foreign country.

BAHR: Well, I personally think this is a valid reason to return to California. I would like now to jump ahead to your tenure as vice-chancellor for faculty relations at UCLA, a very significant portion of your career at UCLA--1974-1990--sixteen years. Let me ask you, What were some of the major issues you had to deal with as vice-chancellor? What were some of the issues raised in the recruitment and retention of faculty?

HOROWITZ: Some of those issues were directly reflective of classical breakdowns of the kinds of programs that HEW and the Social Security Administration administered. We would be attempting to recruit somebody to come to UCLA on the faculty. We'd get into salary discussions--faced constantly at the departmental level--with efforts to bring an outstanding person to UCLA. We have an intricate academic personnel system in the University of California. It depends for its legitimacy and the respect

that it must maintain from the faculty--

The second question gets erased from my memory.

BAHR: You were talking about trying to recruit highly qualified people, and you would get into salary negotiations with the department.

HOROWITZ: The university, in the academic personnel side, is administered, to begin with, from the president. The president of the University [of California] has delegated authority to run that academic personnel system. That means nourishing possible recruits; having a competitive salary structure in the university as compared with other places that individuals might go; figuring out a way, simultaneously, to be responsible at the market level for having a personnel system that will be attractive to the person in comparison with what might be in the package that you put together.

BAHR: And where, then, does the vice-chancellor come in?

HOROWITZ: Technically speaking, individuals who are in these administrative positions are people who help the chancellor out in his carrying out his responsibility.

BAHR: That really makes a lot of sense.

HOROWITZ: What I'm trying to do is describe the legal structure of the University of California. That's what it comes down to. We've talked about this; the first day, I think we mentioned it a little bit.

BAHR: We did.

HOROWITZ: Let me see if I can develop that further. What was the question again?

[laughs]

BAHR: Well, we have a situation of trying to recruit a potential faculty member with a salary competitive with other institutions. Now, where does the vice-chancellor come in in these efforts?

HOROWITZ: If you take the whole pot that has all elements of administration of the University of California in it, you can slice apart--I'm getting into difficulty here with the correct allusion-- I'm trying to get away from the necessity to talk about taking slices of a melting pot.

BAHR: Okay, let's have a pie then. [mutual laughter] We'll take slices of the pie.

HOROWITZ: Or the contents of the pot, maybe. I don't know. Let me stumble around with this. There's something lurking here of importance, I think. The California Constitution creates the University of California, and the president of the university is designated by the [Board of] Regents [of the University of California] to administer that program, to achieve the goals that the personnel system is designed-- To enable people who come to work for the university [to] meet and understand the conditions of their employment. This is getting too ponderous.

BAHR: No, no. This is going well.

HOROWITZ: Back to my effort to describe the legal structure of the university, because I think that's the core of what we're talking about, or what I'm trying to talk about. Authority goes from the California Constitution to the regents. The regents have created an academic personnel system and said to the chancellor, "You run this." So at the chancellorial level, you have an overall administrator responsible for giving

meaning to the salary system, the judgment of academic prowess, decision about an applicant, etc. The president, by delegation from the regents, is given the responsibility of putting this--

Maybe I can best do it by just trying to analogize. The regents delegate to the president. The president delegates to the chancellors. And the chancellors are given authority then to act in the chancellor's name or to act in the president's name in some circumstances. And there's a certain parallel there, I think. You have the analog to the chancellor and the president. The analog to that is the dean and the chancellor at the-- Oh, I don't know at what level I'm getting this to.

Suffice to say, the University of California is a construct of delegated authority from the regents as it winds down through to the chancellor. And finally, we have an academic personnel decision to be made. Should we approve the dean's recommendation that X be appointed professor step so-and-so at UCLA, because that's where we develop and maintain quality in faculty recruitment? UCLA, I think, made a significant contribution to the administration of the academic personnel policy and procedure in the university.

I don't want to go into this. I was involved personally in a lot of that, and I don't want to turn this into singing a song of praise for what I did. I don't want to do that. But we're trying now to describe what I did, not how well I did it.

BAHR: You've raised a very interesting issue in that UCLA made a contribution to this academic personnel structure. Can you describe that?

HOROWITZ: We could best do that by picking out examples of particular subject areas and then see how this general statement I made might apply there. One of the challenges that American universities have been dealing with over time has been the protection of privacy of individuals with regard to material about them in university files. The longstanding clash--clash is not quite the proper word--dispute, maybe--  
[pause]

BAHR: Well, this is a major issue and I came across it in the research--access and privacy rights. I could imagine that you would be involved in that.

HOROWITZ: Well, that's an issue of immediate significance for the lawyers to be involved. But now, you have to remember, we've got the Academic Senate of the University of California running along side-by-side here with the personnel system and what have you. There were questions about the relationship between-- Among other things, the regents, when they delegated authority to the president, did not give the president final authority on some aspects of administering the university. Matters dealing with academic-- It's not a single vertical line that gets you from the regents and the California Constitution awkwardly through until you get to--

BAHR: To the faculty member.

HOROWITZ: Yeah.

BAHR: Yeah. I see that. Now, are you saying that the regents did not give the president of the university control over the issue of access and privacy?

HOROWITZ: Article 9, Section 9 of the California Constitution is a fairly brief

statement, and one would not even want to make the effort-- One should not make an effort to try then to encapsulate that from the view of the regents of the Academic Senate. Another line of authority that the regents created running through the university was the Academic Senate's contribution to administering the educational aspects of the grand plan for UCLA. So these are running along side-by-side. Obviously, this creates problems of getting overloaded with administrative concerns.

I always thought that a major challenge that we--in the academic personnel side of administration of the university--had [was] a chief responsibility to create a system that would command the respect of those who lived under that system. That's where the concept of the ad hoc committee comes from. If someone could take a look at this and say, "Well, that doesn't seem quite fair." And say, "Okay let's add in a level of review here by somebody who's involved in this and has a little bit more authority than you have."

Let me make a digression. You're aware of David [P.] Gardner's book on the loyalty oath? [*The California Oath Controversy*]

BAHR: Right.

HOROWITZ: He, in that book, is trying to work out the best combination of-- It's getting too lofty now.

BAHR: Well, we've gotten into a complex area around which I would imagine there would be conflicting interests--that's access and privacy. Okay. Who would want access to a faculty member's files?

HOROWITZ: Well, there are two sources of interest in such access. One is the subject matter of the file, the person about whom this information has been gathered, because then you can put everybody to work on studying that gathered information and come to a conclusion: how good is this work?

BAHR: Now, this is for promotion and/or tenure?

HOROWITZ: Or appointment.

BAHR: Or appointment. Okay, of course. All right.

HOROWITZ: What you're trying to do at the assistant professor level is appoint people whom you predict will turn out to be a productive scholar.

BAHR: Now, in this situation, I can understand the access needs clearly. In order to make a decision, they need access to the material. Now, where does the privacy aspect come in?

HOROWITZ: When you consider a faculty member for promotion after x number of years as a nontenured faculty member-- State your question again.

BAHR: I can understand the need to access a file. Where does the privacy right come in?

HOROWITZ: Among other things, a file will contain letters of evaluation of the work of the individual. The individual receives a notice of nonpromotion, very traumatic area for everybody involved. The faculty member says, "I think you've made a mistake in the evaluation of my work. From what you've given me, I just don't know what information you had at your fingertips about the value of that work." Universities all

over the country would say to the would-be promotee, "There will be letters in the file from outside evaluators." They would carry a standard statement, "We will not make your letter available to the faculty member whose work is being judged." Because if we do that, then that outside evaluator-- If this is a sticky enough case and one where feelings are running higher and higher--

BAHR: Even if it isn't a sticky case, I would think that the letter writer would want a privacy privilege there.

HOROWITZ: Oh, well, absolutely. So what this meant was that we all had a challenge, continually, to perfect the academic personnel system. And one element where that became necessary was the one that would end up saying to a faculty member who is now being appraised, "We will give you a summary of what's in the confidential documents in the file. You'll have an opportunity to respond to what that summary says." It would be constantly pointed out, you have to have a pretty good summary-maker if that's going to lead to respect for the system, readiness to accept its results. So the applicant-- The department chair, on behalf of the department, if the department has recommended-- That's the basic level of governance in the university. If the chancellor proposes to say this person is not going to be promoted, here are summaries of documents in the personnel file that provide the basis for an understanding of how an ad hoc committee, the counsel on academic personnel, the dean, the department chair-- I don't know, who else have I left out--? All of those people have a legitimate interest of their own in their own privacy in the way the

university is making use of the information that they provide. And at any one time-- I'm not up-to-date now, obviously--you would find that there are at least three, four, five lawsuits going on by disappointed, rejected faculty members.

BAHR: Oh my word, is that right?

HOROWITZ: And that's what these cases that become celebrated cases are all about. The plaintiff didn't get promoted. The plaintiff thinks that that was the result of discrimination on gender grounds, on racial grounds, ethnic. What I've tried to describe there is this system at work and going back to what we talked about a little bit earlier, it indeed is a boiling pot. I don't mean anything disrespectful by that. It's just that there are legitimate, important issues floating around here, and we have to have an academic personnel system that captures that and one hopes-- You can't expect people to say, "Oh my goodness, you're absolutely right Mr. Chancellor. I'm not to be promoted." If you stick to your case, then you have to have a way to resolve that difference of view any way that will command--I keep using this word--the respect of those who are affected by it.

TAPE NUMBER: III, SIDE TWO

SEPTEMBER 22, 1999

BAHR: We've gotten into a very interesting and significant area. I have a couple of questions, really basic questions. Let's say the department chair has written summaries of these letters and the candidate questions the summaries and says, "Well, I want to see the original letter." Then what happens?

HOROWITZ: We begin piling on administrative processes of one sort or another to deal with the kind of problem that you're raising here. You create a system calling for summaries to be made available to the candidate. And you make it possible to test and, one hopes, display the fairness in the way the system has been structured to deal with that problem. That's what makes people laugh and play when they see an outline of the academic personnel system in action.

BAHR: So you're telling me-- Do I understand correctly that there are situations where the candidate can see the original letter?

HOROWITZ: He doesn't see the original letter. The candidate will get--what is it called?--I can't remember the adjectives that go with it, the kind of summary that the candidate receives. But we have the Privilege and Tenure Committee which has been sitting on the sidelines while all of this is developing. The Privilege and Tenure Committee is a committee to which a faculty member who feels discriminated against for improper reasons can go and say, "I've got a complaint. I've been badly treated.

Privilege and Tenure Committee, take a look at it." Privilege and Tenure, under our system, can take a look at the package of material that's been submitted. In there will be original letters of evaluation and summaries of those letters that have been provided upon request to the faculty member. So you've got a whole administrative process that you plug in where you need it by saying, "We have this investigatory agency. You go to them, make your case in whatever way they want you to make your case, and then they will decide whether it appears to them that there has indeed been a wrong committed here." And if they find that there has been a wrong committed, this is after a full hearing, on the record, subject to cross examination of witnesses-- [This is] the fairest adversary grievance solving process that I've ever been associated with.

BAHR: Is that right?

HOROWITZ: It's internal, but it's designed for one purpose, and that is to continue to receive the respect of those who live under the system. Every year, on the average, it seems to me there would be one, perhaps two cases, in which feelings were running high and in which every effort will have been made to have the applicant have justifiable inquiry into what that file says about the applicant. It's a separate little review process. You put them both together and you have a system in which a faculty member can first go to the department. Say that a faculty member is scheduled for review for promotion. The department chair will get the whole thing started by convening departmental administrative entities that will start the review process. That means that you'll have a review committee at the departmental level. It may be made

up only of faculty members from the department involved or it may be made of people from all over the campus. But you can take that case, at least theoretically, all the way to the regents.

BAHR: This is what I was going to ask you. Suppose a candidate gets a negative decision from Privilege and Tenure. Then what is his or her recourse?

HOROWITZ: You mean that at the departmental level you've gathered everything you can and the question is now what?

BAHR: And it goes to Privilege and Tenure, and Privilege and Tenure says, "No, you don't have a good case."

HOROWITZ: Well, not to be brutal about it, but at some point it is what I hope is perceived as a fair system. At some point, and that's along the way, there may be a letter from the chancellor saying, "This inquiry was begun at this point in the academic personnel process. We have looked into everything that you have submitted. The Committee on Privilege and Tenure has looked at everything you submitted and has advised me that it does not see a basis for a conclusion that there was an unlawful injury to the candidate here. Therefore, I must reluctantly write to you and tell you your appointment is not going to be renewed after June 30, nineteen ninety-whatever."

BAHR: But you said, at least theoretically, it could go all the way to the regents.

HOROWITZ: Yes. The regents are the ultimate authority.

BAHR: So the candidate would take it to the regents?

HOROWITZ: The candidate would hope, in a case like that, that it has gone to the

Privilege and Tenure Committee. And the Privilege and Tenure Committee found no basis for a conclusion that this is a wrongful and illegal act--

BAHR: Then where would the candidate go?

HOROWITZ: Well, at some point, the chancellor would write a letter, because now you're beginning to set it up as adversaries. That's an awful thing to happen for the individual involved, for the individual's colleagues, etc.

BAHR: Oh, yeah.

HOROWITZ: But in any event, at that point, the chancellor--among other ways of proceeding--might say, "Here's a review of everything that we now have in the file. You have exact copies of this, you have a summary of this, etc., and there is no further appeal to be taken on the campus." And that's, in effect, a statement to the individual, having exhausted completely--

BAHR: The avenue--

HOROWITZ: Well, in any event, you can see-- If you cut off the process in the middle, the individual can then write a letter to the regents and say, "Do you know what those people who work for you have done in my case?" And there can be, then, further inquiry. The regents conceivably could say, "Well, we better get another committee because we don't have enough information." This is where people begin to laugh at the law in action and say, "My God, you're piling dispute resolution process on top of dispute resolution." But I don't know if there's any other way to run the system than that. At some point, you have to have a final decision in the name of the

agency.

BAHR: Now, as you pointed out, this actually ends up fairly often-- No, I don't want to say fairly often. Sometimes. Sometimes this ends up in litigation that this faculty member will sue the university. Is that right?

HOROWITZ: He sues the regents.

BAHR: The regents. Now, my question is, does the university provide counsel for the individual members who were involved?

HOROWITZ: Undoubtedly not. It's been a long disputed question. Let me take, before we take your case involving the quality of the person's work-- In that kind of case, probably--

BAHR: Not.

HOROWITZ: That's the kind of an issue where you'd get advice from the Privilege and Tenure Committee. The one place where there's an argument to make to provide counsel has to do with disciplinary matters, not academic personnel evaluation matters. If you have a disciplinary matter and the faculty member is proceeded against under that process, that's another separate process completely. If the faculty member proceeds under that process--depending on the nature of the complaint--you don't have much of an argument to begin with that the university ought to provide counsel.

The analog is the indigent defendant in the administration of criminal justice in the community. We have a faculty code of conduct. If the faculty member breaches the duties that the person has taken on under that code, that person is subject to

"prosecution" within the university. Fortunately, that does not happen very often. But it could. And if you now have a case in which you're going to go ahead with a "prosecution" within the university, alleging that a defendant faculty member violated the code of conduct in some way--

In the world outside the campus, there is something known as the public defender system. If a person is charged with crime and says, "I can't afford to defend myself against this," civil government--in Los Angeles, the L.A. County Public Defender's Office--will provide counsel without cost to the individual who is now being tried criminally. And you can have exactly the same thing occur on campus in the university.

BAHR: The department chair then would be responsible for getting his own counsel. Is that what we're getting to?

HOROWITZ: Say that again.

BAHR: I'm sorry. The department chair in this hypothetical case, who is drawn into litigation, would be responsible for getting his own counsel.

HOROWITZ: No. The department chair is working for the university then. The department chair would turn the matter over to the president's office for a conduct of litigation.

BAHR: Oh, I see. Okay. Now, let me ask you, where would you come in as vice-chancellor for faculty relations? What would be your responsibility in a case like this?

HOROWITZ: Well, you start at the beginning by trying to make sure the faculty

member has received all of the information the rules require that the faculty member receive. The chancellor's office would satisfy that office, that there was no wrong committed here that anybody yet has seen.

BAHR: Would you, as vice-chancellor for faculty relations, look at every case? Or only the cases that become problematical?

HOROWITZ: Before you get to the point of identifying those that are problematical and those that might not be, you have to be sure that all the rules were followed in bringing the case from the inception, the departmental recommendation of promotion, sweeping over the entire history of this person in the institution.

BAHR: So does that mean, then, that you would look at every personnel action.

HOROWITZ: This is where the concept of delegation of authority has a legal-- That's where delegation of authority would respond to the problems you are raising.

BAHR: Now, in addition to-- Well, no, let's stay with access and privacy rights.

There was a [California] Senate Bill 251, the [David A.] Roberti bill. Evidently that had an impact on this access and privacy situation. What was that impact? The Roberti bill?

HOROWITZ: Well, it was an example of a difference-- The committee that drafted the bill was working its way through the legislative holes, on the one hand, and the administrative holes of the university on the other and the executive authority of the executive branch of the state government. It's what happens when a legislative committee is formed to look into how the university is conducting its

antidiscrimination on gender grounds workshops. There's a flip answer that can be given to that question and I don't want it to come out as a flip answer, because it's more important than--

BAHR: Well, how did the Roberti bill impact the university?

HOROWITZ: I guess you have to get to part of the flip answer I'm describing. When the legislator--say the chairman of the subcommittee that deals with your budget--speaks, everybody listens. And that's right, that's their job. Nothing more taxing than putting together the budget. You have to fit a two billion dollar budget, or whatever it is for the University of California now, into your mosaic of what's going on here.

[pause]

BAHR: How did the Roberti bill affect the access and privacy rights on the university campuses.

HOROWITZ: The concern of a lot of people in the university was that it just went too far.

BAHR: The Roberti bill?

HOROWITZ: Nobody's trying to argue that you're not entitled to know what's in the file. Except there are some people who might say, "That's so important a concept that if it has to yield to protection of the privacy of the individual, protection of the privacy of the individual loses." The need for the information in later adjudication of the matter outweighs-- That's the way these things tend to be handled. Every now and then a committee of the [California State] Legislature will get onto this topic, perhaps

hold hearings, exploring the very questions that we are talking about. And if you speak with a great deal of authority, then what you say as chairman of a subcommittee is mighty important indeed.

BAHR: We've been talking about probably one of the most significant issues that you would have dealt with as vice-chancellor. And I'm going to go to some other issues that are not quite as, should I say, significant, although I hesitate to say that. I came across some material that you had to deal with teaching loads. Evidently that was an issue with faculty.

HOROWITZ: My participation in dealing with that question was not one of authoritative power to deal with the question of what the teaching load ought to be stated to be.

BAHR: Who would deal with that?

HOROWITZ: The department chair. The dean. The vice-chancellor. The president's office. The regents. On an issue like this, on teaching load, if you could ever put together in one place the file on this, you'd have an enormous amount of material that would-- I would say, "Here are the following state agencies, including the university as a state agency-- Here is a listing of the state agencies that have dealt with this question recently; here's what each of them said. Now, blank, we would like very much to have you think about this problem and write us a report with your recommendations about what do we do with--" [pause]

BAHR: The teaching load.

HOROWITZ: Teaching load, to a very great extent, is a budgetary issue. I was not a participant, really, in discussions of what the teaching load ought to be.

BAHR: Okay. Another issue that I encountered was inter-campus recruitment. That is if, let's say, hypothetically, UCLA wanted to recruit somebody from [University of California] Berkeley and evidently, this caused a great deal of--

HOROWITZ: Oh, indeed. This is where that hypothetical recruitment for a faculty member comes into play. Because when you get into salary wars, very often, that is the result of an evaluation of an outsider some department is trying to bring here. But that's the place where the issue would arise. There's no formalized mechanism I know of to deal with that as a separate problem.

BAHR: So would you have been involved in that?

HOROWITZ: Peripherally, because it would appear not to have anything to do with evaluation of the person's work. It's more comparison of market value of professors in various subdisciplines of the disciplines represented in the university.

BAHR: Now, another issue that I encountered is the employment of spouses.

HOROWITZ: That got clarified in the last few years.

BAHR: Oh, did it?

HOROWITZ: I imagine that-- I can't tell you what the new policy is, but there was work that went on with regard to trying to make sense out of that. It used to be that, I guess, you'd have a separate inquiry into the nepotism background of this particular appointment.

BAHR: Would you have been involved in any of those cases as vice-chancellor?

HOROWITZ: Be involved in?

BAHR: Discussions about whether a spouse should be hired just because a department wanted a certain faculty member, and the package included the spouse.

HOROWITZ: If that's a serious problem at the departmental level, it's going to filter through the material that the department sends in in the case. If nothing else, a faculty member can write an individual letter to the vice-chancellor or to the dean or the department chair and say, "I think we're at the point of making an awful mistake here. This person should not be denied a place in the University of California faculty because of marital relationships or gender relationships, whatever."

BAHR: Now if you, as vice-chancellor, got such a letter, then how would you proceed?

HOROWITZ: Oh, I'd call the dean. If it's in L and S [College of Letters and Science], I'd call the dean and say, "Would you get out the file on X. Let's talk about it, because some people are raising very good points there." They may have very good responses available also to those points.

BAHR: And ultimately, where would the decision be made?

HOROWITZ: Are we asking at this time that the individual not participate in an evaluation of the candidate because the candidate is married?

BAHR: Yes, that is what I'm asking.

HOROWITZ: Let's see. I doubt if that would-- That would not go through

consideration in the traditional administrative channels of the university. There's a rule, at this time, saying you can't appoint X to a position based upon marital relationships or whatever it would be called.

BAHR: You cannot.

HOROWITZ: Cannot. And if you can't, there's nothing more to talk about. The regents are the final authority, not the campus at UCLA. Some people may raise issues about denial of appointment in such circumstances, but it's not an issue where you go out and gather a lot of facts. If the University of California policy says--let's assume it says this and it's perfectly valid to say it--"We will not not appoint X because X is married to Y, etc., etc." There's nothing the campus can do about that. If that's officially promulgated valid--I underline valid, legally valid--standards, then the university at the campus level simply must say to itself, "This is what we're dealing with here." There's specifically a point rule promulgated by the regents, so you do not need an ad hoc review committee, review by the Council on Academic Personnel, all the other things that had to do with evaluating the quality of the work of the candidate. And you wouldn't get off into that channel.

You can see, if you think about it long enough and can generate the interest to do it, that you can chart these varying intersecting lines of authority and what have you in the University of California. When I got into this, I didn't know what I'd be looking at-- It seems to me that the University of California has a rational, reasonable procedure for dealing with disputes in the academic personnel process. Some of them

are disputes about the evaluation of work; others are disputes about the valid or invalid application of a particular policy in a particular case.

BAHR: But you think that the structure accommodates some resolution?

HOROWITZ: I'm sure there's a wise philosopher's statement that says that. [mutual laughter]

BAHR: But in reality? I also came across-- This seems like a minor issue when I mention it, and that's housing. But it turns out in the file that it was a major issue. A department wants to--

HOROWITZ: Well, we were feeling knocked about because we didn't have as much housing money and housing resources to offer new people coming in. We were unable at the beginning of all this to say to the individual: "Work this out with the department. Let's see what happens here. If eventually we get to the point where the only thing we can talk about is whether we have a house for you, we'll talk about that." I don't know what the answer is going to be if in the future we talk about that, but that's how we handle it procedurally.

BAHR: Now suppose it gets to that point? That that's the only thing that's preventing the appointment.

HOROWITZ: There are, no doubt, special arrangements as-- I'm thinking of a statement of David [S.] Saxon's here. Can you repeat--

BAHR: We're talking about housing, that sometimes that's the only thing--

HOROWITZ: Oh, yes. I can't remember the exact context but David, I remember,

opined that "The history of great institutions is filled with examples of special actions taken to accommodate special people."

BAHR: Really? That is very--

HOROWITZ: That's a nice, nice statement.

BAHR: Do you agree with that statement?

HOROWITZ: You can't pin yourself down on something like that.

BAHR: But it is a good statement.

HOROWITZ: The way I would try to live with that statement is to say that we are going to, in effect, have some housing money that's going to be available upon proof by a dean and a chair that this is that important. And you don't tie your hands and then come back and say, "Why the devil did we speak so fervently earlier about not having unequal distribution of housing money." And apparently it's easy for an administrator to fall into line and realize that what he's saying is, "Trust me, I'll do a good job of getting this money out to people who need it for housing." But that's not a sufficient answer.

BAHR: No.

HOROWITZ: But it may be a sufficient answer to say to the dean or department chair, if we get cases of this magnitude--their importance to UCLA is so obvious--then I, as an administrator, am going to have to find a way to live with that. It's not a triumph of unreason, unfairness, inequity that A gets a housing loan and B doesn't. As long as you demonstrate that the distinction between the two cases was the order of

importance that individual represented. And that's--

What we have in the academic personnel system is we have a whole bunch of policies that are very specifically laid out. You'll get reviewed for tenure in your seventh year. If you wait and come back and say, "Oh, I forgot about this," the answer has to be, "Well, you can't come in and write your own deadline." That's not unfair, even though we don't have it written out. I can't find a policy anywhere that would say that-- Well, maybe I've said enough.

BAHR: Well, I like your statement about that it's not a triumph of unfairness. I think what I'm hearing is it's a realistic flexibility on the part of the university. Is that what I'm hearing?

HOROWITZ: Sure. It's not flexibility in the name of being able to get away with something that otherwise you couldn't get away with. The university has to be administered out in the open. The one thing you guard fiercely is the privacy of the individual. And you don't [release] information about that individual that you've collected for the purpose of evaluating that person.

BAHR: What higher purpose would this flexibility serve in the interests of the university and the community? Let me ask that again; it didn't come out quite right. You said we don't resort to flexibility just to get by with something. Why do we want flexibility?

HOROWITZ: Because arguably we will have the better faculty for having done that. We will fill a vacancy or vacancies with people of great achievement or about to have

great achievement. And I will defend a process that has that as its main purpose.

BAHR: I think that is a very good place to end today. A very positive statement.

We'll continue this next week.

TAPE NUMBER: IV, SIDE ONE

SEPTEMBER 29, 1999

BAHR: Today I would like to continue a topic we've been exploring in which you have a great deal of expertise and interest, and that is the governance of the University of California. Now, it's my understanding that universities in the United States either have constitutional or statutory status. Am I correct?

HOROWITZ: That's correct.

BAHR: Which of these does UCLA--?

HOROWITZ: That's leaving out private universities, which are another category.

BAHR: Okay. Public universities in the United States are either constitutional or--

HOROWITZ: When they're created by state law, they're one or the other.

BAHR: Okay. Now which status does the University of California have?

HOROWITZ: It's constitutional.

BAHR: Now what does that mean?

HOROWITZ: It means it's created by the California Constitution. Other states appropriate funds for operation of the university. But if you're going to change what that basic framework of the university is, you've got to change the California Constitution. You have to go the electorate. So that's pretty clearly a very difficult obstacle for those who would like to have the [California State] Legislature run the university. Or, if not run the university, have a very significant role in the

administration of the university.

BAHR: Now that's exactly the area I wanted to get into. What are the potential sources of friction between the University of California and the state legislature?

HOROWITZ: Jesse [M.] Unruh would no doubt have some very wise remarks to make in response to that question. I suppose the major debate has to do with the budget. That's true as a general observation about governmental enterprise in the University of California. Well, certainly one is the budget and the university's efforts to keep competitive salaries, particularly for its academic staff. Every now and then there will be an issue that arises with regard to the substantive aspects of whatever the policy is, members of the legislature expressing the view that the university ought to fire this person or-- I don't know. I can't think of cases where that has become so clear an issue. I'm not sure-- Was Angela [Y.] Davis ever the subject of legislative action? I'm not sure if she was.

BAHR: I don't think so.

HOROWITZ: The chancellor was carrying out his constitutional responsibilities as chancellor when he said, "I'm going to reappoint her," and then later said, "I'm not going to reappoint her." Wait a minute, I guess I'm wrong on that. He never said that he's going to reappoint her, did he?

BAHR: I think he did.

HOROWITZ: Oh yes, that he's going to-- Yes. Absolutely, yes.

BAHR: So that was a constitutional authority for the chancellor, right?

HOROWITZ: Uh-huh. Well, except if he had to be held to account before the [Board of] Regents [of the University of California] for the position he took on Angela Davis. That would be an administrator within the university taking the position that the administrator was-- Every time I try to spell these out, I get all tangled up. Maybe the problem is that we started out this little segment by talking about--

BAHR: Friction. Areas of friction.

HOROWITZ: You can see I'm uncomfortable with the notion of friction.

BAHR: Okay. That's fine, that's good. In which areas-- let me see how I want to ask you this--might there be a conflict of interest in the shared authority between the various governing units?

HOROWITZ: Might there be?

BAHR: Conflicts of interest. Well, you mentioned budget as one area. That clearly would be a conflict.

HOROWITZ: I wouldn't call it a conflict of interest.

BAHR: Okay. What would you call it?

HOROWITZ: Each one trying to do its job and having a view of what power is given under the state constitution to do that job. The result may be that a legislative committee is holding a hearing, and it wants to have people from the university come to that hearing and testify. I don't think there's a conflict of interest if the faculty member responds, "Gee, I don't know anything about that." Or if for any other reason, "I don't think I want to be interviewed about that." That's conceivable. I don't know

that I ever encountered that as an actual position taken by a legislator.

BAHR: Well, that does clarify it. Other than budget, where would there be areas for discussion?

HOROWITZ: I guess in the day-to-day administration of the university. There's nothing outside that realm. Legislators take very seriously their responsibilities with regard to the day-to-day administration of the university. It's certainly not a matter of having a conflict where each side is staking out a position and then saying, "Let's talk about this and I'll try to convince you that my approach to this is the way it ought to be and you try to convince me to the contrary." In theory, you hope and wish that's the way the system operates. But sometimes the issues get highly charged and it doesn't work as well to say, "Well, we'll wait and see what happens here."

BAHR: Now, when we talk about constitutional status, are we talking about Article 9, Section 9, of the California Constitution?

HOROWITZ: Yes.

BAHR: Now, where do the regents come in under that constitutional authority?

HOROWITZ: Well, I can probably find a copy of the California Constitution around here. Most of the stuff is in boxes, while the painters are here. But your question again?

BAHR: Where do the regents fit in in this constitutional authority? Do they report to the legislature? Are they accountable to the legislature?

HOROWITZ: They're accountable in the sense that they have constituencies. And

those constituencies-- It's not a direct connection, I guess, because you can have a legislator from one part of the state who is the chairman of a subcommittee and comes from another part of the part of the state. And you don't want either of them to say, "I represent the County of Ventura here," or whatever it may be. It's, "I represent delegated power to the legislature by the constitution," which says that the people have to act to bring the constitution into existence. And you can have a clash as to whose business the particular matter is. Let's see if there's another, better example. I can't think of a better example.

BAHR: Let's--

HOROWITZ: We had all this business about open files, etc., that we talked about.

BAHR: Yes. If there is a clash which cannot be resolved by reasoned discussion, who has the ultimate authority to resolve it?

HOROWITZ: To resolve it?

BAHR: If there's a clash between the university and the legislature which cannot be resolved through their reasoned discussion, who has the ultimate authority?

HOROWITZ: There's nobody with ultimate authority. It's an interesting question, but members of the state legislature do not have authority over regents of the university, or administrators who are given authority to run the university by the regents.

BAHR: Now, in my research, I came across some attempts by the legislature to legislate certain things. For example, evidently there was a problem with the university working with the [United States] Department of Energy nuclear weapons

research labs. Evidently, there was some opposition to that.

HOROWITZ: The issue, as it most recently arose, had to do with whether that contract would be renewed, I think. And there were petitions being passed out at faculty meetings around the system. But you can't say that either party, as so described in the state constitution-- Neither party reports to any other entity within the system. Now that I say that, I realize that, well, I have to drop a gigantic footnote here and talk about the judicial branch of state government under the California Constitution. There's a whole chunk of concern, particularly about the legal aspects of administration of the university. Let me see if I can make any more sense out of shared governance, because that may sound very vague.

BAHR: No, it doesn't sound vague to me.

HOROWITZ: The theory is that the state constitution creates the university in California. I can't put together an example. I think what's concerning me here is that our very conversation about these issues is descriptive of what a lot of different people in the university deal with every day. There's nothing unique about delegation of administrative authority.

BAHR: Well, suppose, now, with the nuclear weapons research situation-- Am I understanding correctly that there were people who did not want the contract renewed?

HOROWITZ: Oh, yes.

BAHR: And people who did want it renewed. Now, how would such a situation be resolved?

HOROWITZ: Well, ultimately by recommendation of the president [of the University of California] to the regents. Where did the president get the material that he uses to assemble the data the president has in mind in making the recommendation? The concept of shared governance is that the regents are created by the California Constitution-- Let's just go on; maybe this will fall into place.

BAHR: Okay. Let's go on with this example of the nuclear weapons research laboratories. I can see why this would be a very sensitive issue. Let me ask you this: Do you recall how it was resolved? Was the contract renewed?

HOROWITZ: I think it was. I think that came to a conclusion after I left my administrative position. But I think that's right, it was decided by the regents after presentation of relevant materials, I assume, from the president.

BAHR: Suppose the majority of the legislature did not agree that the contract should be renewed. Would they have any authority to negate that decision?

HOROWITZ: Not to negate it, no.

BAHR: So other than being accountable to their constituents, they do not have direct authority over the university, is that correct?

HOROWITZ: Uh-huh.

BAHR: Okay. I'm trying to get this straight.

HOROWITZ: There are different people you want to be sure somebody talked to about this to get all these sources or points of view in order. David [A.] Wilson, who had been in the political science department-- Wait a minute. No. Never mind.

Scratch that.

The grand scheme of the legal aspects of administration of the university go on the notion that the administration, personified in the president, gets advice from the [Academic] Senate before it takes positions on issues, before it recommends the adoptions of different policies, etc. That's where shared governance as a working phrase comes into play. You have individuals who, in their offices, are called upon to be advisory to the administration of the university. That's done through senate committees.

BAHR: Excuse me, Doctor Horowitz. The state senate? You're talking about the state?

HOROWITZ: No, no. Academic Senate.

BAHR: Academic Senate. I thought you were talking about the Academic Senate.

HOROWITZ: In theory, you have a reciprocal to that. Now let me develop the reciprocal. On the hand, the administration-- I'd better push on. I'm sorry I'm just leaving these hanging thoughts for you. I'm worried because I'm trespassing--as some would say--into a domain other than my own.

BAHR: Oh, are you? Okay. Why don't we go on then to a domain that I think you were directly involved in. That was VERIP, the Voluntary Early Retirement Incentive Program. Now, as I understand it, there were professors who took voluntary retirement but were recalled. Now, on what basis could a professor be recalled?

HOROWITZ: Well, a primary concern would be the need of the university for the

particular expertise that faculty member would have to offer to the total academic program. It used to be that to justify a recall, you had a very rigid standard to meet. That's before the [University of California] Academic Personnel Manual was amended to provide, as it now does-- But the faculty could say, "X is retired, but we've got to have the course that X would teach in the curriculum this year. We're going to have other arrangements to take care of covering that material next year." And you have the ordinary personnel process working here. You would probably go to an elected committee of Academic Senate members in a department and--

BAHR: Well, you were saying that it used to be very rigid, with the implication that it's not as rigid now. The requirements for--

HOROWITZ: Yeah. I'm getting mixed up here between what we're currently talking about at the moment and nepotism. Because you have somewhat similar problems there. It used to be that you had to make a case, a strong case, for the hiring of the spouse. And there were certain similarities between that process and the process that would say here is a pool of retired people. We have a whole set of doctrines about under what circumstances can you hire them in a post-retirement status.

BAHR: Well, let me ask you a direct question. Have the conditions for recall changed or are they essentially the same as they were when VERIP began?

HOROWITZ: Well, a lot of people were interested--not just interested, were deeply interested--in whether there would be a position for them, a part-time teaching position for them, if they took early retirement. There were, no doubt, discussions all across

the campus in which a department chair would spell out whatever policies there are and-- It would be so much better if I had a copy of the Academic Personnel Manual here, wouldn't it?

BAHR: Well, we don't want to get that deeply into it. So the department chair and the department decides, "We need this person--this retired person--to teach this course."

Who has to approve this recall?

HOROWITZ: Well now, in theory, the president. But we go beyond the theory. Why is that? Because a university runs on the basis of delegated authority in academic matters through the Academic Senate, and we're talking here about the senate performing its role in having an advisory mechanism.

BAHR: So if a person is recalled by the department, how does the Academic Senate come into this? In an advisory capacity?

HOROWITZ: You mean in an individual case?

BAHR: Uh-huh.

HOROWITZ: In general, departments are required to have elected committees of senate members to deal with issues pertaining to a faculty member's--

BAHR: Status, I imagine. So what I'm hearing is, the Academic Senate would not be involved in an individual case.

HOROWITZ: No.

BAHR: This is a general governance issue.

HOROWITZ: But they get involved. They--members of the senate--get involved in

the promotion process, for example, because there are explicit rules about who does what and then what comes after that. We put together a number of enforceable standards of fairness that the personnel process must bring to bear. The president cannot approve a chancellor's recommendation for tenure for a faculty member if there has been inadequate consultation with designated committees of the Academic Senate. I realize what I'm trying to convey in all that we're talking about here is our effort to have a fair process by which individuals will be fairly judged under applicable criteria that are very specifically spelled out in the Academic Personnel Manual. To some extent, I'm chattering away here about procedural requirements to assure fairness. And I'm sure sometimes, I come through to some people who are touched by the academic personnel process who don't see it as a--

BAHR: I think that's very natural. You're talking about a system as it's ideally intended. But I would imagine there are always cases where someone thinks he has not encountered the ideal. It seems to me that the VERIP--how shall I say this?--offer to faculty was very attractive. A large number of faculty people took--

HOROWITZ: Why is that on your list of things to go into?

BAHR: Well, because I think as vice-chancellor of faculty relations, were you not involved with VERIP?

HOROWITZ: Yes. But if I were asked to list the issues from an administrative perspective, of administrative issues that faculty members would get involved in, I could try to do that.

BAHR: Okay.

HOROWITZ: Oh no, not right here.

BAHR: Okay. Let me complete that question. Because it was attractive, it would seem to me that there would be a loss of critical mass of faculty.

HOROWITZ: I don't know if the verdict is in yet. I think, among other things, that attempts are being made to determine what the impact will turn out to have been on the academic workforce of the university by providing incentives to retire that were as attractive as these were. I guess I'm just not sure why it's the Oral History [Program]'s interest.

BAHR: Well, we're interested in your responsibilities as vice-chancellor, and I'm wondering if that was a responsibility. But evidently, since that impact hasn't been ascertained, the loss of critical mass wasn't even an issue for you. Let me ask you this: How would the recall of professors who have retired effect the recruiting of new, young professors?

HOROWITZ: Well, that was part of the issue. People were concerned-- My goodness, if you promulgate this kind of early retirement with the kinds of incentives that you've built into it, there are going to be generations of would-be assistant professors who are not going to get jobs in higher education because others have presented attractive ways for departments to have some of their stars continue to glitter. So I'm not quite sure who was opposed. The opposition, in principle, was primarily worried about what happens to the academic program if we weaken

departments the way some people fear this will weaken them.

BAHR: Oh, really?

HOROWITZ: I don't know if you have an opportunity or want to do this, but I think in the Department of Political Science, they have been very interested in this question. I don't know who you could talk to if you can expand your interviews beyond what they are now covering.

BAHR: Well, let me ask you: Since you say this was a concern--that some departments might even be weakened by the recalls, ultimately--where did this discussion take place? Was it department by department? Or was it more in the shared governance arena?

HOROWITZ: I think it was finally promulgated by the president as a vast amendment to the [University of California] Retirement System.

BAHR: Oh, was it?

HOROWITZ: What you have to do is get a booklet that will say, here is how the University of California retirement program works. This body does this, this body does that, etc. It's becoming clearer to me that I'm not the person you ought to be talking to about such questions.

BAHR: Okay. Let's--

HOROWITZ: I mean, that's part of the retirement system and--

BAHR: It is, you're right.

HOROWITZ: --for experts.

BAHR: You're right. We've gotten into an area a little bit beyond your responsibility as vice-chancellor. I'd like to go on to a responsibility that you had as a professor emeritus, and that was the coordinator of UCLA responses to the mandates of NAGPRA. Let me spell out what NAGPRA is: the Native American Graves Protection and Repatriation Act, Public Law 101-601, which was signed into law in November of 1991. That's quite a mouthful, that law. What was the intention of NAGPRA, the legislation?

HOROWITZ: Before we try to talk about that, I again would throw out my caution. I'm not sure this has much to do with the effort to have an oral history of the development of UCLA. NAGPRA is a one-time only revision of federal standards that museums have to have been operating under. I had no special responsibilities with regard to that. What I had was the presence of a retired faculty member who, on a part-time basis, continued to work in the administration of the university on this case. I don't know what we'd make of that beyond the fact that, yes, that's correct. There was a little glitch in a little new federal program.

BAHR: Well, evidently, it was a very controversial issue on campus. And since you were the coordinator, I thought we might just briefly discuss some of your responsibilities.

HOROWITZ: Oh, golly. I can't pretend to be expert in this.

BAHR: No. Nobody can. Well, let me ask you this. You were retired, is that correct?

HOROWITZ: I retired in 1990, yeah.

BAHR: Yes. Then why were you selected as coordinator of the university's response to NAGPRA?

HOROWITZ: Why? Because I was available. The federal government issued new regulations. We had to prepare inventories of artifacts held in the university's museums. I had experienced, administratively, the university and what was wanted here was-- A question: What do we do to comply with this federal statute? And we've created a little advisory committee. I mean, that's always what you do, in the academic world at least, I guess, is create a committee. That committee was asked to sift through all the relevant materials we now had on the campus related to NAGPRA.

BAHR: What did NAGPRA require of the university? You know, you just said that one of your responsibilities was to help determine that the university was in compliance with NAGPRA. Now what did that mean?

HOROWITZ: We were suppose to have a particular format for the presentation of the inventory of the cultural history museum at UCLA [Fowler Museum of Cultural History].

BAHR: For what purpose? Did the federal?--

HOROWITZ: Well, the museum of cultural history is a long-term administrative housing of the museum activities. The chancellor has responsibility for everything that happens on the chancellor's campus. That's the way the regents have done it. The regents have passed a general provision which says chancellors have the authority to

administer university policy so as to make the academic personnel process work, so as to make relationships with governmental entities work, and all kinds of examples of that sort. But I can't think of anything in terms of--

BAHR: Well, this is a situation where the University of California is attempting to be in compliance with federal legislation. Now my question is, why did NAGPRA require this inventory? What was the purpose?

HOROWITZ: Oh, well, that has to do with the long-standing issue of repatriation of American Indian artifacts. There was a change in political views, I guess, that finally came through and said that there shall be repatriation under the following conditions, or following the following processes. Were there people who were opposed to that?

Yes, there were. There are anthropologists around the country who feel that that was a mistake by the federal government to enact this. And within the limits, it was a mistake for the University of California to get involved in this massive repatriation of artifacts. So what do you do with that? I mean, I don't know what that tells us about--

BAHR: Well, how this ultimately was resolved. Because it was not only an issue between the university and the federal government, but an issue between the university and the community. There was a great deal of controversy about the issue, so how it ultimately was resolved, I think, reflects on many aspects of the university, including shared governance.

HOROWITZ: Uh-huh.

BAHR: Those people who were opposed--on what grounds did they oppose?

HOROWITZ: They likened this to book burning.

BAHR: Oh, really?

HOROWITZ: They likened this to the knowing destruction of relevant scientific materials gathered over time and now--

BAHR: And in opposition to the opposers-- In other words, people who were in favor of NAGPRA, on what grounds did they favor the repatriation?

HOROWITZ: Because this is a deeply religious issue for some individuals in Indian tribes. I was concerned that the university was poking into an area it ought to stay out of, which is religious belief or beliefs. That's it, I guess.

BAHR: As you stated it, clearly. You've clearly stated the source of conflict, the destruction of scientific teaching material on the one hand, and the repatriation of religious artifacts on the other. Now, as the university was making its inventory, what responsibilities did you have in that regard?

HOROWITZ: At what point specifically?

BAHR: When they were attempting to inventory the artifacts, did you have responsibility there?

HOROWITZ: I was involved in the preparation of the inventory.

BAHR: You were?

HOROWITZ: Uh-huh.

BAHR: That must have been a tremendous job.

HOROWITZ: It's a large collection that we have, and we have to administer that

collection in accordance with applicable federal legal standards, plus whatever standards the university may impose on this.

BAHR: Do you recall how many years it took to complete the inventory?

HOROWITZ: You can get a copy of it from any one of the libraries or call the chair of the Department of Anthropology.

BAHR: Okay. Now, my understanding is that after the inventory was completed, potential living descendants had to be notified. And I stress potential. Now that must have been a tremendously difficult task--

HOROWITZ: I'm not sure what you're referring to. It sounds to me as if that may be an aspect of the functioning of the so-called-- What's it called? It's based in Sacramento--

BAHR: Well, we can get that. I think my question is, were you directly involved in any of this notification of potential living descendants in Indian communities?

HOROWITZ: Potential living descendants is one standard or one description of the--

TAPE NUMBER: IV, SIDE TWO

SEPTEMBER 29, 1999

BAHR: Let me ask you this in relationship to NAGPRA, was it your responsibility to look at the legal aspects of compliance?

HOROWITZ: A lot of it requires the interpretation of the language that the Congress used or that the secretary of interior uses in administering the act. I think I'm right, the secretary of the interior.

BAHR: Right. Because one of the persons who opposed the repatriation complained that the NAGPRA bill lacked definition.

HOROWITZ: Or it had curious definitions, some people pointed out.

BAHR: So how were you involved in this? Was it your responsibility to explain the mandates or--?

HOROWITZ: I had no responsibilities in the university at that time. The question was, could I help in getting the NAGPRA administration mechanism underway? As I suggested when this first came up-- [pause]

BAHR: Okay. Just one more question about NAGPRA. According to my research, the inventory was completed and submitted by Chris [Christopher B.] Donnan, who was then the director of the cultural history museum, on January 23, 1992. So it took a while to complete. Is it your belief that UCLA fulfilled its legal obligations?

HOROWITZ: Oh, yes. We would have had no business submitting the inventory if

we weren't satisfied that it met whatever applicable standards there were.

BAHR: Now, you had a very rich and varied career at UCLA. Tremendously rich and varied, and I do want to talk you about your career outside of UCLA. But before we do that, let me ask you, is there anything you would like to add to our discussions about your career at UCLA? [Is there anything] in regard to your teaching or your research or your administrative responsibilities that you would like to elaborate on?

HOROWITZ: Not without some prompting. I can't think of anything that I haven't referred to.

BAHR: [Perhaps the question] is a little bit too broad. Is there anything about your teaching that we didn't cover? It seems to me that teaching was very gratifying to you, am I correct?

HOROWITZ: Yes.

BAHR: And you taught for the entire time? Did you also teach while you were vice-chancellor?

HOROWITZ: For a little while I did and then I gave that up, because I just couldn't handle keeping a course going while trying to do a full-time job as an administrator.

BAHR: What about research? Were you able to continue to research?

HOROWITZ: I did a little bit of scholarly work, what I would call scholarly work and what the law school would call scholarly work.

BAHR: In what area?

HOROWITZ: Well, let's see, I have to have in mind a chronology of dates of years of

publication of articles. You don't have that biographical statement with you, do you?

BAHR: It seems to me that most of your publications were in the area of the Fourteenth Amendment [to the United States Constitution].

HOROWITZ: Yes.

BAHR: And you continued in that area?

HOROWITZ: I did when I was at HEW [Department of Health, Education, and Welfare]. I think I completed-- I can't remember.

BAHR: After you became vice-chancellor--I think I've asked you this already, but I want to clarify it--you were able to continue to do some research?

HOROWITZ: Oh, yes.

BAHR: Okay. I want to go on to your career outside of UCLA, which was also a very rich and varied career. I'm somewhat amazed at how much you were able to accomplish. Let's begin with your teaching at the University of Southern California. You were a professor of law there from 1950 to 1960, ten years. Why USC? How did that come about?

HOROWITZ: That was where I was able to find a beginning teaching job.

Fortunately it came up in Southern California, in Los Angeles, which is where I wanted to be located geographically if I had any choice about it.

BAHR: During this time that you were teaching at USC, you received the Ezra Ripley Thayer Teaching Fellow[ship], at Harvard University Law School], 1954 to 1955.

How did this come about?

HOROWITZ: Well, I wanted to do more graduate work in law. I could have gone-- Any number of law schools had graduate programs--Ph.D. programs, the equivalent-- at that time. But it seemed most logical to me if I really wanted to have an academic degree--doctoral degree--the thing to do was to go back to Harvard [University Law School] and that program they had for graduate students in the law.

BAHR: So you were a teaching fellow at Harvard?

HOROWITZ: Uh-huh.

BAHR: Okay. Nineteen fifty-four to 1955. In other words, you took a leave for one year from USC?

HOROWITZ: Yeah.

BAHR: And then you returned to USC and completed your teaching career there before you moved on to UCLA, is that correct?

HOROWITZ: Uh-huh.

BAHR: In 1964, from February to July, you were a member of the President's Task Force on the War Against Poverty. What were the criteria for selection to this task force?

HOROWITZ: Well, I wasn't involved in the actual selection of them, so I don't know what the criteria was for identification of these people. They were people gathered from all over the federal government who primarily worked in federal programs that had to do with poverty. The president, I guess, instructed [Robert] Sargent Shriver [Jr.], who was then the head of the Peace Corps, later on who became the head of the

Office of Economic Opportunity-- I think I'm correct about that. Where are we going?

What did I--?

BAHR: I'm leading you into responding to how you were selected for this task force.

So far, you've said the members were already working for the federal government, is that correct?

HOROWITZ: I don't recall if there ever was a document that was an official document that said the following is a listing of names of those who are members of this task force. It all sounds far more orderly and organized than it really was. I think that's what it comes down to.

BAHR: But do you know why you were selected?

HOROWITZ: Oh, because I knew some of the people who were already working on the task force. They needed somebody from HEW to fill out the niche that they felt existed without an HEW person on that group.

BAHR: Now, how well did this task force work together, in your opinion?

HOROWITZ: I found that experience on the Task Force on the War [Against] Poverty to be-- Now what words do I want to use here, because they may last? This is my description of this, let's see. I think a primary reason that I ended up on that task force--there were about ninety days of supercharged activity--was because I knew one of the people who was putting the group together and I had the HEW experience to bring to bear to the group. So it was a combination of knowing the person with the responsibility to create the entity, plus having a relevant expertise that people, I hoped,

would find useful.

BAHR: Now how was this experience for you? You said it was--

HOROWITZ: I want to get the proper words here if I can. I found the experience with regard to the task force to be-- One thing I remember about that experience--and it may capture in a funny way what I'm trying to say without saying out. But I remember one of the first things when I came to work on the task force-- [pause]

BAHR: How well did these task force members work together?

HOROWITZ: It was an undertaking of sheer opportunity to participate in the creation of a new governmental program that would turn out to be a very important segment of the totality of the federal government's efforts to deal with poverty.

BAHR: That's a tremendous task.

HOROWITZ: I was going to say I found the whole experience thrilling, but that's not quite what I mean.

BAHR: But I think you've alluded to it. You said it was nonstop activity and it was a tremendous opportunity.

HOROWITZ: Oh, I remember. Let me interrupt you about nonstop activity. I came to work and sat in meetings on a couple of issues. Would you repeat what you've just said?

BAHR: The nonstop activity.

HOROWITZ: Oh, yes. I was given, by one of the people running the whole affair-- I was asked to prepare a memorandum on a particular topic for a presentation to a group

at midnight.

BAHR: Oh, that day? Midnight. [laughs]

HOROWITZ: That's what I'm trying to capture here.

BAHR: Well, there must have been a lot of enthusiasm and excitement.

HOROWITZ: Oh, absolutely. I'm just restraining myself. [mutual laughter]

BAHR: Don't, because I get excited hearing about it.

HOROWITZ: Well, I may have mentioned this before, the interesting thing about it was the similarities to the New Deal, New Deal times. There were actually some people around who had worked in the creation of New Deal programs involving poverty, etc., and we felt that the mantle had been passed.

BAHR: Yes. Well, I don't think thrilling is too strong a word, I really don't. What would you say were the strengths of this task force?

HOROWITZ: The expertise it put together. No, it's quite a challenge. I mean, you're talking about the vast reaches of the federal government of the United States. And you get a group of people who are committed to the goals and principles that the concept of the War on Poverty suggests. That's what I meant about nonstop.

BAHR: Yeah. Well, it was only in operation, according to my notes, from February to July. What were the weaknesses of the task force?

HOROWITZ: We were all, with a few exceptions-- I don't think I even know their names, I don't know if they were formally members of the task force-- Now, ask your question again.

BAHR: The weaknesses of the task force.

HOROWITZ: Perhaps less total experience in such matters in the federal government.

If you take all of the task force members together and ask what expertise they represent, etc., maybe the whole picture you'd get would be somewhat less than you might describe it if you just sat down with a piece of paper and tried to create something without talking to people.

BAHR: How do you perceive the effectiveness of the work of this task force?

HOROWITZ: I'm unable to talk about that. We left Washington, [D.C.], I don't how many months afterward, after the report of the task force went in and the proposed legislation proposed by Shriver--

BAHR: Okay. Let me ask you this. What were the dynamics of this task force? Because you had people from all over the nation, probably, on it. People from different parts of the federal government. People with different expertise. How would you describe the dynamics?

HOROWITZ: Well, people kind of broke down into specific concerns. People from HEW, in particular, had thoughts to convey with regard to education. How education would be covered in the War on Poverty act.

BAHR: Since you were with HEW, was that then a major concern of yours?

Education?

HOROWITZ: Well, of everything HEW did, yes. But I was not in the programs. I was not in the federal Food and Drug Administration, etc.

BAHR: How was this concern for education then incorporated into the recommendations by the task force.

HOROWITZ: Well, the final job that the task force did was to write a bill which was going to be the centerpiece of the legislative presentation that would respond to the kinds of issues that the president wished to have covered in this domestic part of his program.

BAHR: And how do you feel about the work that you did on that committee?

HOROWITZ: I think about it with pride. That says it all.

BAHR: Yeah. It does say it all. I think it's a very positive and good place to conclude for today. Thank you.

TAPE NUMBER: V, SIDE ONE

OCTOBER 13, 1999

BAHR: How are you today, Dr. Horowitz?

HOROWITZ: Very well, thank you.

BAHR: Last time we were together, we were talking about your career off campus, that is, your career other than UCLA. You were a member of the National Advisory Committee to [the] Legal Services Program, Office of Economic Opportunity, for a number of years, 1965 to 1973. How did that come about?

HOROWITZ: What was that last sentence?

BAHR: You were a member of the National Advisory Committee to [the] Legal Services Program, Office of Economic Opportunity. How did that come about?

HOROWITZ: Well, that was one of the legislative outgrowths of the War on Poverty program. I stayed with the task force as it moved toward becoming an administrative entity for a while. We then decided to return to Los Angeles. I don't remember how long it was I was with the task force. A lot of the people who worked on the [President's] Task Force on the War [Against] Poverty stayed on and went administratively into positions around the government where this Office of Economic Opportunity had some program responsibilities. That was a marvelous time also, because we created a new federal agency. That's pretty exciting stuff.

BAHR: Oh, yes! And what was that federal agency?

HOROWITZ: What was--?

BAHR: What was the federal agency that you created?

HOROWITZ: The Office of Economic Opportunity.

BAHR: My word. That is impressive.

HOROWITZ: No, I didn't mean it in that way. It's impressive to me, but hardly impressive to those around Washington, [D.C.] who were--

BAHR: What were your responsibilities in this regard?

HOROWITZ: I was an attorney. I mean, not in the sense of having a practice, but part of the attorney staff put together on this task force to do the attorney's jobs, whatever they would be.

BAHR: Can you give me an example what kind of a job you might have?

HOROWITZ: Well, let's see. I guess the very creation of the Office of Economic Opportunity was one such, where we had the assignment or the goal of planning for the operation of this new federal agency. I'm not sure how specific I can recall all this. Well, let's talk on, because there may be other elements that come--

BAHR: Yes. I'm just curious. What type of expertise as an attorney was needed in creating this program?

HOROWITZ: Well, I think the people who work for the federal agencies in Washington are administrative lawyers, or lawyers to administrators, in advising them on what their governing legislation for what their program is, what is required by the statute. The attorney then becomes an advisor and interpreter of the mandate that the

federal agency has.

BAHR: I see. What would you say were the strengths of this program, the Office of Economic Opportunity? The strengths?

HOROWITZ: Oh, golly. I guess I'm not sure what we would mean, in our talking, by strengths. There were a number of talented, experienced administrative program individuals strewn throughout the Office of Economic Opportunity and the task force. I would say--not knowing quite what I'm doing--the strengths lie in the quality of the work that the people on the task force were able to bring to bear. This was, I don't know-- Other people surely were not as affected as I was with all this. But there was a certain excitement in thinking that here we have an opportunity to create a governmental agency that's going to be dealing with the heart of matters of the poor in the United States, the poor in America. This agency was-- You have to be careful, because it didn't do all that much. It was a tiny agency and never-- I'm not exactly sure what its status is right now. I had recently occasion to look up a statute and it was there, but that was months ago. And I don't know whether the Office of Economic Opportunity is actually functioning now, I must say. I had mentioned the last time we talked--

BAHR: Well, you've clearly articulated the strengths, and your excitement and gratification working for the program. Were there weaknesses that you observed?

HOROWITZ: Not that they have stayed with me all this time, so I can now call them up and say there was a weakness. People were working far more hours a week than a

normal workweek constituted.

BAHR: Is that right?

HOROWITZ: And when you get people working that hard with relatively unspecific mandates as they create what they're doing, there are going to be mistakes or curiosities or what have you. I'm not hiding a thing here. I can't think of an example.

BAHR: Well, I think you've answered it very well. The weaknesses were not apparent enough that they have stayed with you all these years. I think you've answered this question, but let me ask it. How do you perceive the effectiveness of the work they did in this Office of Economic Opportunity?

HOROWITZ: I have to plead current ignorance as my main response to that. There were four or five different national programs that the task force recommended to [Robert Sargent] Shriver [Jr.] to be included in the legislative package. Again, the talent hunt in Washington worked, as far as I can see. People with great zeal and great, great confidence in their ability to make a difference, that all came together and you had the Office of Economic Opportunity.

This was an adventure for me. I had never been that close to federal administrative agency programs before, and I had a narrow view--without any evidence to help me out--of what the lawyer does in these circumstances.

That's why what I tried to do earlier was refer to something that could be called administrative lawyering or lawyering for administrative agencies. But that's it. The federal government becomes a defendant in lawsuits of various sorts and the lawyers

are involved in the defense of actions brought against the federal government.

Lawyers are involved if you're going to get formal and you're going to want to-- [tape recorder off]

BAHR: Did you ever appear in court on behalf of the federal government in this capacity?

HOROWITZ: Let's see. I did, but as part of a team of lawyers of which I was very junior. What I'm referring to here was the several school desegregation cases that I was involved with. The Department of Justice is the grand office of attorneys in the federal government. The Department of Justice represents governmental agencies of one sort or another, as we've been talking beforehand. I was one of the program people from the Department of Health, Education, and Welfare [HEW] who was involved in the affairs of the agency. And that came down, among other things, to the issue of desegregation in the public schools. That was the very kind of lawyering I wanted to do if we were going to pack up and go to Washington. It worked out perfectly for me from that standpoint. I'm leaving out here-- We're talking now about desegregation litigation. The Department of Justice represented the U.S. government in various cases. It intervened in cases in state courts where state lawyers were involved. The Attorney General's office in Washington would have U.S. Attorney employees involved in all litigation that dealt with the Fourteenth Amendment [to the United States Constitution], enforcement of civil rights of individuals. A lot of this was so dramatically shown when the integration of the University of Mississippi took

place in-- Gee, I'm embarrassed, I'm trying to remember his name, the graduate student at the University of Mississippi who--

BAHR: I'm embarrassed. I've forgotten it also. I know the case you mean, yes.

HOROWITZ: James Meredith.

BAHR: Right. Thank you. You saved us. And how were you involved in that?

HOROWITZ: I'm listed on the briefs in some of these cases as "of counsel." I think [that] is the way that they mention it, which is just to distinguish you from an immediately first-- This gave me an opportunity to do the sorts of things I said earlier I hoped I would be able to do if we went to Washington, and that turned out to be so in the school desegregation area. Two little known federal court actions were brought by the United States Department of Justice against southern school boards from two segregation states. I was fortunate enough, from my perspective, to be involved in efforts to get court orders ordering the desegregation of the public schools involved in these lawsuits. This gets to be very complicated when you try to reconstruct what that was all about. It was an odd, odd situation in which the federal government went to court, sued southern school board officials in a particular school board, the goal being a court order that would order desegregation in these circumstances. The people involved in some of the cases were in the so-called impacted areas program where the U.S. Office of Education--I guess it was, or HEW someplace--was distributing federal funds to facilitate the carrying out of the mandate to prosecute these suits. I'm sorry, I should not have used the word prosecute. That has connotations of criminal activity.

It doesn't have to mean that, but it has such--

BAHR: No, I think you've clarified that.

HOROWITZ: So one was the desegregation. We pegged everything on the notion that these schools were receiving federal funds in order to enable them to meet the additional workload that came with having a military base suddenly appear at your doorstep overnight with, who knows--hundreds?--how many kids ready to go to school. The federal government had the function of seeing to it that the southern schools were carried out not only, then, in compliance with state law about desegregation, but also federal law about desegregation. And the U.S. Department of Justice was in there saying, "Under federal law here, it is our position that these schools are being operated in violation of the Fourteenth Amendment."

BAHR: It's no wonder you're excited about that work. I mean, those of us who were just observers remember that as a tremendously exciting time.

HOROWITZ: That's what it was. I think I may have mentioned earlier the fact that one of the high points of our experience there was to meet people who were part of the original New Deal task forces that on a much higher, more sustained level, quantitatively, just a larger level-- Now, what was I tying that larger level into? Oh, you have to listen with a sharp ear here because--

BAHR: Well, you had mentioned before that you were very excited and gratified to meet these people who had participated in the New Deal.

HOROWITZ: That's it, yeah.

BAHR: I can understand that. Major changes in the federal government's relationship--

HOROWITZ: That was the background. I guess I mentioned that the first assignment I had was to come to a meeting that began at midnight. That describes the tensions, the insights--

BAHR: Well, and the commitment. I would think a commitment, too.

HOROWITZ: Yes, oh yes. That's a good word to apply here.

BAHR: Now you left this post, I believe, in 1973. Why did you leave?

HOROWITZ: In '73 or '63? Was it '63? Sixty-four was the Civil Rights Act.

BAHR: Well, according to my notes, you were there from 1965 to 1973.

HOROWITZ: No, that's eight years. We were in Washington three years, three years plus.

BAHR: All right, then let me be sure and double check on that. Why did you leave when you left?

HOROWITZ: I think we talked about this earlier. For me it was, among other things, an opportunity to return home to where my parents and bring their grandchildren back to Los Angeles with us. That was a worthwhile endeavor.

BAHR: Yeah, I think so. I agree with that. I'd like to move on to another very interesting, shall I say, involvement that you had, and that was, you were deputy general counsel of the Governor's Commission on the Los Angeles Riots, the so-called McCone Commission.

Let me, just for the record, give a little bit of background. On August 11, 1965, riots erupt in [the Watts neighborhood of] Los Angeles when an Anglo police officer arrested a black man for drunk driving. This was followed by six days of rioting, considerable damage, people were killed. How did it come about that you were the deputy general counsel of the governor's commission on those riots?

HOROWITZ: This was very similar. I had not thought about the matchups of things happening on both sides, but I guess it was a replay at the McCone Commission--state commission level--of the President's Task Force on the War Against Poverty, which was functioning at a federal level developing programmatic ideas within the narrow-- Not narrow-- [pause]

BAHR: Well, you were talking about the parallels between this commission and the work that you did on the War on Poverty. Parallels between the McCone Commission.

HOROWITZ: Well, the staffing of the McCone Commission was different than the process that you'd go through to find a cabinet level secretary for a federal department. It was supposed to be representative of the various communities touched by the Watts rioting. You had an appointee of the governor, [John A.] McCone. Warren [M.] Christopher was on that commission. Well anyway, that's illustrative of what the appointing authorities attempted to do with the McCone Commission. I put all my papers from the McCone Commission in the UCLA library, so someday I hope they will be of interest to somebody.

BAHR: Yes. I would think so.

HOROWITZ: I learned my lesson-- It's interesting for you as an historian practicing professionally--

BAHR: You began by saying you learned your lesson when you served on the McCone Commission.

HOROWITZ: I was not on the commission; I was on the staff. The President's Task Force on the War [Against] Poverty had an executive director, or whatever he was called, but he was not a lawyer, as I remember. There was a staff-- Oh, the whole thing was so fleeting, so it's hard to put it back together again, because there wasn't much to see when you had it put back together.

What was I trying to remember though, about the McCone Commission?

Well, it may come back unbidden, we'll see.

BAHR: Well, the report of the commission, which is entitled *Violence in the City: An End or a Beginning?*, is published, so we don't need to get into the content of that. I'd like to focus, rather, on how the committee worked. How did it happen that you were selected to serve on the commission or for the commission?

HOROWITZ: The commission tried to put together a staff that would enable it to carry out the charge the governor gave it. It was just like what we were talking about earlier at the federal level. It's the same general response as with regard to the federal Task Force on the War Against Poverty. There were people who were given the responsibility of assembling, again, a task force, whatever you want to call it. And

that's how it came about. I'm sure Warren Christopher was absolutely central to identifying the people who would be on the commission.

BAHR: Yes. And why do you think you were selected?

HOROWITZ: Well, I had a peculiar combination of experiences by that time, because I had what we've just been talking about at the federal level with regard to the task force. I had three and a half years of experience at HEW doing the lawyer's job in connection with federal grant programs, disseminating federal resources for the War on Poverty. So I assume it was a matter of somebody making the assumption that I had this experience. Maybe I had something to offer here.

BAHR: Now, what did your participation involve?

HOROWITZ: Same old story that we've been talking about or I've been talking about. Being a lawyer, doing the lawyer's job, which can be a very far reaching job indeed.

BAHR: Yes, indeed. Now, as you pointed out, it was rather a brief existence for this commission, and I would imagine it operated under a lot of tension.

HOROWITZ: Well, I think the commission was given thirty days--

BAHR: Thirty days was all?

HOROWITZ: --to do its research and write its report.

BAHR: Oh, my word.

HOROWITZ: I think I'm right on that--thirty days.

BAHR: That was shorter even than I had thought. Then what were the dynamics there? I would imagine that there was lot of pressure.

HOROWITZ: Well, the chief thing I came down to doing on the McCone Commission was working with the outside consultants. They wanted to have a chapter in the report about public education in southeast Los Angeles or South Central Los Angeles. I had the function-- I don't want to imply I was the only one, but I had, among other things, the function, with other people, to find individuals on college campuses around the Los Angeles area who could, on a really crash basis, write an essay and submit it to the McCone Commission outlining what the problems with public education in Los Angeles are or have proved to be. Recommendations. It gave these academics an opportunity to go right to the center of things and submit their reports. We had one on education, one on welfare, one on law enforcement, employment. Well, you can see what was done there.

BAHR: And were these recruited from campuses all over the city or--?

HOROWITZ: Well, I can probably remember who they were. I don't know how the answer to that question would come out. They were people who had the city as, among other things, their base of interest as academicians. Let's see, there was Kenneth [A.] Martyn, who was the education expert.

BAHR: Where was he from?

HOROWITZ: He was, I think, L.A. State [now California State University at Los Angeles]. I don't think its name had been changed at that time. Let's see, what else?

BAHR: Was there anyone from UCLA?

HOROWITZ: Paul Bullock--I don't know if you ever encountered Paul--worked in the

Institute of Industrial Relations at UCLA. He was the major author of, or the author of, the commission's report on employment--or unemployment, rather--in the Los Angeles area and how that could have contributed to the riot. Then there was law enforcement, people with various points to make regarding the L.A. Police Department. Chief [William H.] Parker, I think, was in command at that time. He was an impressive man.

BAHR: In what way impressive?

HOROWITZ: Well, a chief thing that struck me-- I have to realize there's a danger that I was utterly naive about the whole enterprise and accepted the-- What did we call them at the time? Bits? Pieces of news information. I can't remember the word now.

BAHR: Sound bytes?

HOROWITZ: Sound bytes. Yes. If there were such a thing then, then this would have been one of them. [mutual laughter]

BAHR: Now, under this kind of pressure and this kind of time constraint, how well did these people work together?

HOROWITZ: Well, the consultants in these four or five or six or seven different subject areas did not have occasion to meet with their colleagues in other fields. They were gathering information as rapidly as they could and turning it into-- I call it an essay; that's really what it was.

BAHR: I'm going to ask you the same question I've asked you before. What did you perceive as the strengths of this McCone Commission?

HOROWITZ: Well, I thought they did a fine job of selecting the commissioners, I mean starting with McCone as chair. I never knew him. This was out of his ordinary course of experience, I take it. He was, I want to say, an industrialist. That's probably not a good word here, but he used to be in the shipping industry. But a very competent man to be doing this job of bringing all the people together. And he was riding herd, particularly on meeting that thirty day deadline.

BAHR: Somebody had to. So he definitely was a strength.

HOROWITZ: Warren Christopher. Sherman [M.] Mellinkoff, who was dean of the UCLA [School of Medicine]. Who else was there? There were a couple of community representatives. I can't remember now the process by which people were identified as being representative of the community and sit in that capacity on the commission.

BAHR: What did you perceive as weaknesses in this endeavor?

HOROWITZ: Probably the speed with which it was attempted to be done.

BAHR: I would think so, yes. How do you perceive, in the short term, the effectiveness of their work?

HOROWITZ: Well, everybody in reviewing the report of the Governor's Commission on the Los Angeles Riots points to one achievement in particular and that is the Martin Luther King [Jr. General] Hospital. Sherman Mellinkoff was very much involved in putting that recommendation together, I believe; I wasn't there when that committee was meeting. But there's a specific example of the time just being right for some

reason or other. And it was possible to plunge ahead and say, "Let's build another county hospital." I don't know how long it would have taken to get that through if you didn't have the tensions of the moment driving you forward and wanting to forget rules restraining what's relevant to your concern and what is not relevant to it. There just wasn't time to have in-house battling over who's going to do what.

BAHR: Oh, that's a good point.

HOROWITZ: The whole point was to get it done.

BAHR: Now, as I understand it, you were involved in the portion of the report that had to do with the quality of education?

HOROWITZ: No. I was dealing with the entire sweep of what the McCone Commission was touching on. I mentioned who the chair of the education group was. That was not a formally appointed task force, or was not a-- [pause]

BAHR: This is probably a difficult question to answer, but how do you perceive the effectiveness of their work in the long run?

HOROWITZ: I'm too far away from it now to say I've followed what has happened. There used to be periodic reports issued by the staff director, Tom [Thomas R.] Sheridan. They tried to keep it up-to-date.

BAHR: So there was some continuity then?

HOROWITZ: Well, there was nothing to be contiguous with or continuous with, really. I mean, there was the report of the commission which went to the governor. And then it got chopped up into legislative bits and pieces. That's the way these things

emerged as done jobs.

BAHR: What do you feel that you gained from this experience? Or what did you learn from this experience?

HOROWITZ: Well, again, it was an opportunity to see government at work close-up. And an opportunity to see what law-trained people could do in the administration of governmental affairs to carry out the purposes of the various programs that they were assigned to administer. So again, I guess it was being exposed to state and local programs geared up to deal with poverty in the United States or poverty in Los Angeles County. That's very vague and very general, but that's what the contribution was, I think, of that episode. I never before tried to run along on dual tracks of the McCone Commission on this hand--the federal Task Force on the War Against Poverty-- So this experience that I'm trying to relate is, in part, at the state level and, in part, at the federal level. I don't know if there's anything here for political scientists to come back to after all this time has gone by.

But one thing I learned when we were in the Department of Justice and the Task Force [on] the War [Against] Poverty, one thing I learned was how important it is to try to keep, not a record, but keep the evidence and index the evidence you have, so others can come and make use of that information that you were able to gather. I remember, I really got obnoxious about this, I mean, my insistence on trying to keep papers. But I remember conversations both at the federal task force level and the McCone Commission level-- I've lost my thought.

BAHR: Well, you said you became obnoxious about--

HOROWITZ: "Obnoxious"--that's a bad word; that's not what I meant.

BAHR: Persistent, perhaps.

HOROWITZ: But in any event, when a meeting would finally break up, I remember going around the table and picking up all the pieces of paper there were and put them into a cardboard carton and just let it accumulate in the expectation that someday, somebody may be interested in this. I think not "obnoxious," but probably "pompous" would be the word I want here.

BAHR: [laughs] That's hard to believe. I'd like to move on to another topic. You were a member of the Governor's Commission on the Law of Preemption [1966].

Now, you have to help me out here. What is the law of preemption?

HOROWITZ: Preemption refers to a situation in which it is said that the state government has preempted this field for exclusive state regulation and you can't have local law applicable to this situation. The only law applicable to it in California is California's law. You say here that the state law governing activities are exclusively the domain of appropriate state and federal administrative entities.

BAHR: State and federal?

HOROWITZ: Yeah. To contrast them. Federal is supreme over everything under the [United States] Constitution.

BAHR: So the preemption is by the state or the federal government as opposed to the local government?

HOROWITZ: Yeah, yeah.

BAHR: Now, how did it come about that you became a member of that commission?

HOROWITZ: I don't know. I can barely remember who was on it. I can remember one episode in connection with it that you'd have to edit out of whatever your

producing here, but I might as well pass this story on since it was passed on about me.

Let's see, who was the chair of that committee? In Sacramento, the [California] State Legislature, governor's office, on occasion, go outside government to get input of factual information that's desired in order to run the programs that they're running.

There are a whole lot of such commissions in the Sacramento files. The governor will say, "I need some help on this one, and it's a different kind of help than I might get from the legislature, so I want to appoint a citizen's commission that will also look into this and make recommendations to me, as governor, of how I want to proceed here."

Somehow it became apparent to somebody the need for a governor's commission, if that's what it was, to deal with issues involving the law of preemption.

Around that time there were a whole bunch of lawsuits, I think, in which people were arguing, "We were not subject to this local regulation in this case, because the state law has preempted the field." And that's the way it would come up in private litigation or in governmental litigation.

The story I was going to tell had to do with a comment that George Slaff, who was the-- He may have been the ACLU [American Civil Liberties Union]'s nominee to that commission. I don't know; it's quite possible. But, in any event, George was the

acting chairman of that commission from time to time and he recalled, at one of the last meetings we had of the group, one segment of the report of the staff to the commission with the recommendation that the commission pass this on to the governor.

TAPE NUMBER: V, SIDE TWO

OCTOBER 13, 1999

BAHR: You were talking about George [Slaff] as acting chair of the Commission on the Law of Preemption.

HOROWITZ: I have to think of the ending of this point to recapture the beginning.

Oh, George was making a report--it was at a dinner meeting of some kind--about what we were up to and he introduced the various people who were working on this and he said, "And if you will go to the committee's report, members of the audience, you will find a most unusual piece of language that you might encounter in a governmental report of this sort." Then he turned to me and said, "Hal has been working on the question of whether state law preempts local law in the regulation of--" What was bare-breasted dancing called?

BAHR: Topless.

HOROWITZ: Yes. As the state legislature in regulating topless dancing in the fashion it has, also expressed an intention that local government could not regulate topless dancing. It was important to have a single uniform set of regulations on that subject if there's going to be any regulation at all. And George said that within the commission there was dispute among the members of the commission about whether topless dancing should go into the state category or into the local law category. And the line in the commission report that captures this eternally, that captures this

moment, as George said, "If you will all take a look at the commission's report that we've given you today, you will see that a section on topless dancing reads 'There is a cleavage in the commission on whether topless dancing should fall into the state or local category.'" [mutual laughter] So it's there. I haven't seen that report in a long time, but I don't suppose anybody bothered to go back through trying to erase it.

BAHR: That's a great story.

HOROWITZ: What does all that have to do with the development of UCLA? [mutual laughter]

BAHR: Now, I'm trying to get--for myself--a handle on this. How do I want to ask this question? Was the commission responsible for clarifying the law of preemption?

HOROWITZ: Clarifying, resolving apparent differences in view about the same subject, but from different people having differing views of what that meant. It was an attempt to bring order to an area that people found disorder in.

BAHR: Was this a temporary commission?

HOROWITZ: Yes.

BAHR: You were also a member of the board of directors for the Western Center on Law and Poverty beginning in 1967. Now, according to my research, the Governor's Commission on the Law of Preemption was created in 1967. Were you involved in this?

HOROWITZ: Yes. That seems correct.

BAHR: Were you involved in the creation of it? How did that come about?

HOROWITZ: Well, a lot of us were post-OEO [Office of Economic Opportunity] people, and there was to be a legal services component to the program in the war against poverty. And I guess my accumulated experience kept accumulating, yeah.

BAHR: Now was this a community service organization or a government organization?

HOROWITZ: It was an entity that was created by virtue of the mandate of the Office of Economic Opportunity.

BAHR: Oh, it was?

HOROWITZ: Of the Economic Opportunity Act of 1964, that's the formal designation of the statute. It's at this point that attention shifts to Lizzie [Elizabeth Marmorston Horowitz]. She has both a law degree and a social welfare masters [degree], and she was very deeply involved in the creation of the Western Center and legal services programs in Los Angeles. So we were involved in that aspect of the OEO program. We wanted to get set up in Los Angeles the structures that were needed in order to qualify for federal grants that would then enable spending those grant monies in the name of advancing the purposes of the Economic Opportunity Act.

BAHR: Now, I wasn't able to determine this, but for how long were you involved in that center, do you know?

HOROWITZ: Oh, that was very undemanding as far as time goes.

BAHR: What were your responsibilities or your participation specifically.

HOROWITZ: Well, you had this going on all across the country, people creating new

entities because the federal government was ready to make grants to support what those agencies would be doing. So it's not difficult to round up a lot of people very quickly who have a program that they'd like to sell to the Office of Economic Opportunity.

BAHR: Right. Now, it seems to me that the Center--

HOROWITZ: I was attempting to be cute there, and I don't want this record to be one of suggesting that there was wrongdoing or anything like that in administering these programs. I have no information, and I don't purport to comment about that.

BAHR: No, it didn't come across that way. It seems to me that the Western Center on Law and Poverty has a very broad outreach. How effective do you think this outreach has been?

HOROWITZ: Well, again, I have to answer that from a personal point of view and comment that I think that outreach had-- I wanted to say profound effect, but that's-- It had a very significant effect on what came after, because the Western Center on Law and Poverty was the agency under whose mantle the California case was brought called *Serrano [v.] Priest*, which held unconstitutional the way in which local education was financed under the California Constitution. *Serrano [v.] Priest* held-- It said that California school districts could not validly gear the quality of education they offer to kids to the amount of financial resources that are made available. And--I think this works out at the end--the idea was to compare what the child in Beverly Hills gets and that child's public education experience with what the-- Let's see, with whom did

we compare Beverly Hills? A district to the east, near Covina. Which one was it?

In any event, we attacked in that lawsuit the whole basis of the notion that the financial resources you put at the-- That can be used for-- The quality of education cannot be varied based upon the financial powers of the relevant administrative school districts to provide that education. That meant that property taxes in Beverly Hills were-- There were some graphic comparisons. If a tax rate for schools in Beverly Hills was--I'll just make this up now--\$2.80 per whatever it would be, per day, I guess, you could not have the quality of what one student gets determined by that financial base if that financial base was the product of the state's setting up the counties in Los Angeles the way it did. So we attacked the validity of the keying of the quality of educational opportunity to the amount of resources available.

BAHR: That is significant. Now you say "we." How did this *Serrano v. Priest* case come about?

HOROWITZ: Well, that gets--from my perspective--quite personal. I mean, personal in the sense of being a participant in this. It started in the Los Angeles area, in the UCLA law school. I don't know how far to go in this to make this a personal report. Well, that's up to you again.

BAHR: Don't worry about it. Just let it flow.

HOROWITZ: The origin of *Serrano v. Priest* is in a law review article that I published with a law student in the *UCLA Law Review* in which we proposed this conclusion I've just expressed to you about not having the quality of educational

opportunity hinge on the financial resources available. We published the article, and the Western Center [on] Law and Poverty was brought in to take over the lawsuit. They had a chief litigator in the Western Center plus other people who had varying positions in the center in addition to being interested in the education matter.

*Serrano* [v.] *Priest*, for me, is a high point--it may have been a low point also, I can't deny that--of an illustration of law and social change that we have talked about earlier. What we did in *Serrano* was step back, take a look at what the apparent constitutional problem was, develop a line of argument that would persuade a court to say, "This is an unconstitutional way to finance your public schools. You can't use it. You've got to do something else again," which the state scrambled around to do. But these were--I guess you could call them public service lawyers. That's the way many of them would describe themselves.

BAHR: Now, you said this was a high point for you. How so?

HOROWITZ: Well, I don't suppose a lawyer connected with a law school who teaches in the areas we've been talking about has any greater goal than bringing about improvement in society in the fields in which that person happens to be expert. And this was an opportunity for people for do that.

BAHR: You also said that it was a low point. How so?

HOROWITZ: We were attacked on doctrinal grounds, that this was going to destroy the public schools to try to impose a different kind of financing system on them.

Where's the money going to come from?

BAHR: Who attacked you on doctrinal grounds? Who were your opponents in this litigation?

HOROWITZ: Gosh, I really can't remember that now. It must have been people within the school system itself who were dealing with people in the little group that was administering the *Serrano* case.

BAHR: Now, following this decision in this case, what was the practical outcome then of this decision?

HOROWITZ: I ought to be able to answer that question, and I can't. I just have not kept up to date with it. There were acts in the legislature that got passed and a totally different approach then to school finance.

BAHR: Do you think this has persisted over time, that the quality of education is not tied to the local income? [tape recorder off]

It's clear to me that your career has been characterized by an involvement in the equality of education. And you've had a passionate interest, both practically speaking and in research, in equality of education. Am I correct about that?

HOROWITZ: Uh-huh.

BAHR: And would you say that this *Serrano v. Priest* was a high point in having an effect on the quality of education?

HOROWITZ: There's a little bit of literature on this. I don't have citations to it available just like that.

BAHR: Uh-huh. What I'm really looking for is your feeling about it. How did you

feel about that decision?

HOROWITZ: Well, again, we talked about-- With the task force, you asked how I felt about work on the President's [Task Force] on the War Against Poverty. I think there's a lot of that that could be found where actions were undertaken in the legislature because people were of the view that constitutional law required it. I can't quantify in how many cases a school board came together.

BAHR: No. But, in regard to how you feel about this, did you feel that it was an effective means of working toward equality of education?

HOROWITZ: It can be deceptive, because a lot of people in the area of public services law in California and in the United States are of the view, from what they observed, that the courts will be the instrumentality of correcting all the problems that we can identify. *Serrano [v.] Priest* is a nice example of using the legal system to bring about societal goals. It can be a very controversial area. A lot of people say, "Well, it's not the lawyer's business to go poking around." There were visions of Western Center lawyers going to school board meetings or going to homeowners meetings or whatever and the assumption being, "We've got a theory, and we're ready to go to litigation. Does anybody want to talk about litigation here?"

It's interesting, the concept in United States jurisprudence about lawmaking. Lawmaking by the courts is a very activist view of what the role of the courts is or can be, and my satisfaction in connection with that was to be able to ride the crest of that. For better or for worse, that's what has occurred. The court system is viewed as an

instrumentality of social change, period, and I don't begrudge it that. I mean, it's important that that function is there. But this is the area in which you have these huge continuing disputes about the role of the U.S. Supreme Court getting involved by attention in the most difficult problems of the time and then trying to work one's way through it.

There's a certain relief that comes from saying, "Well, the courts will settle that and, therefore, we don't have to get involved in detailed lawmaking efforts of other sorts. We're going to be able to wander in here one day with an injunction and order that the [State] Treasurer in California not continue to violate the Fourteenth Amendment [to the United States Constitution] or the equivalent in the California Constitution." So it turns the lawyer into an activist, not on purpose to be activist, although if he can win the lawsuit at the trial, you've made a tremendous leap.

BAHR: I can imagine.

HOROWITZ: Trouble is, does that really have any difference in the lives of people--?

BAHR: Yes?

HOROWITZ: --and I'm not the one to ask that question of.

BAHR: How do you feel about lawyers being activists?

HOROWITZ: Some should be. Some should be something else, where they find their interests leading them.

BAHR: But evidently you found certain satisfaction in activism--you yourself.

HOROWITZ: Oh, yes. Yes.

BAHR: How so?

HOROWITZ: Well, the result in *Serrano* [v.] *Priest* sums it all up for me. We had a couple of cases that we brought in, where? Mississippi, Virginia, Louisiana, Florida, I guess, four or five or six cases that were brought by the federal government to desegregate impacted areas' local public schools. We won two of those. It's an extraordinary thing to discover-- In the history of all these cases there were a couple of them in which, without great ostentation or hoopla or what have you, the U.S. came away with a positive judgment in favor of the constitutional position the plaintiffs were taking.

BAHR: I'll say. Yes. This has been a fascinating discussion today, Dr. Horowitz. Really interesting. I think we'll end here for today and we'll continue next week. Thank you.

TAPE NUMBER: VI, SIDE ONE

OCTOBER 20, 1999

BAHR: Dr. Horowitz, I would like to follow up on a topic we were talking about last week, and that is your involvement with the Western Center on Law and Poverty.

How was that center funded?

HOROWITZ: Office of Economic Opportunity in Washington, [D.C.].

BAHR: And how was it staffed?

HOROWITZ: I'm not sure what you mean.

BAHR: Was it staffed by volunteers?

HOROWITZ: Oh no, it had a paid staff. There were also volunteer lawyers. But the core of the staff structure was employees of the Office of Economic Opportunity or some other governmental agency.

BAHR: And what was your status? Were you a volunteer or--?

HOROWITZ: Let me remember when this all happened.

BAHR: A long time ago. Nineteen sixty-seven.

HOROWITZ: What was the question again? Sorry.

BAHR: Well, I think I'd rather ask it this way: How did you become involved with the center?

HOROWITZ: Well, I was part of the group that got the Western Center created. The Western Center, among other things, supports litigation--supported litigation at the

time--dealing with legal rights of the poor. And I guess I was at UCLA by then. It was just a natural attraction. I was interested in the legal issues with which the Western Center would get involved. The Western Center was interested in getting help from practicing lawyers, from law school faculty members. It's just like the other activities we've been talking about.

BAHR: Right. Now, last week we were talking about the *Serrano v. Priest* case, and I have heard this decision, which was in 1971, characterized as a landmark decision in public education. I remember that last week you said that the inception of this case was the result of an article that you had written for the *UCLA Law Review*. Is that correct?

HOROWITZ: My participation was the result.

BAHR: Okay. You wrote an article for the *UCLA Law Review*. What was the argument in this article?

HOROWITZ: The argument was there was a denial of equal protection of the laws to have some schoolchildren in California who had a particular level of quality of educational opportunity. The argument was that that difference in responding to the needs of those children was a violation of the Constitution [United States] by the school boards that treated children differently based upon their wealth or the wealth of their families or the wealth of the district they lived in.

BAHR: Right. Now, I want to make sure I understand that. Did your article get the process going which eventually led to the lawsuit.

HOROWITZ: I don't know. There was a good deal of thinking about this very question all over the country, and I think the Western Center's litigation was concluded first. I'm pretty sure about that. Other cities and counties and states became interested in *Serrano* as a possible precedent for legal actions they might seek to pursue. That's the way the law grows. Decision after decision, except as a rejection of the argument made in a particular decision. I haven't read that article in a long time now, but as I remember it, it was straight equal protection analysis, arguing that you couldn't validly have differences in program quality from place to place within the state.

BAHR: Well, as I said, it's characterized as a landmark decision. Who was Serrano?

HOROWITZ: John Serrano. I'm sorry, I don't remember his position. He may have worked for a school system or local government of one sort or another. But that's as precise as I can be right now.

BAHR: Okay. And who was Priest?

HOROWITZ: The state treasurer of California [Ivy Baker Priest]. She was responsible for getting these monies through the federal grant down through state government to the local entities that were going to be carrying out the programs.

BAHR: Now, as I've noted before, equality of education in the United States has been a major thrust of your research, and you've published a great deal on that, including articles on the *Bakke* [*v. University of California Regents*] opinions and the equal protection doctrine. Have these decisions, like the *Bakke* decision, had an impact on UCLA? Or on the University of California?

HOROWITZ: Well, ultimately it did. For example, the Board of Regents [of the University of California] was moved just recently to adopt a policy that appeared, to the dismay of people interested in affirmative action, because the litigation was said to deny any further recognition of that right to equality of these circumstances.

BAHR: Are you referring now to Proposition 209?

HOROWITZ: Uh-huh.

BAHR: Yes. Proposition 209 was approved by the voters in 1996 and went into effect after it was upheld by the courts in the fall of 1997. It's purported purpose is to eliminate racial and gender preferences in public agencies. Now my question to you is, what impact will Proposition 209 have on the University of California, in your opinion?

HOROWITZ: I'm not the one to try to respond to that question. I've been away, as you know, for some time from these issues within the university. That's such an important question, I would not want to filter anything that is being said here through me, because I just don't have any recent experience.

BAHR: Okay. That's fair enough. I would like to move on now to summarizing your career at UCLA. First of all, let me ask you what you think were some of the significant endeavors of the university in which you were involved?

HOROWITZ: Review and rethinking of the academic personnel process.

Appointment and promotion of faculty members. If I had a specialty within what I was doing at the university, that was it.

BAHR: And what, specifically, do you think was changed in that process? What were the changes [in the personnel process] that occurred during your tenure?

HOROWITZ: Opportunity for the person being considered in the process to contribute to the promotion file, if it's a promotion case. To respond to material that the candidate finds in that file as it's making its way through the university. That and a good deal of accompanying doctrine I would put first on my list of what I was involved in. I've said before that a real challenge is to have an academic personnel process in the university that will be accepted as reasonable by the candidates for advancement under that system, who will have respect for the system, who will support the concept of peer review to assure fairness and justice in this system.

BAHR: Well, that's quite a significant endeavor. Let me ask you if there were any disappointments during your career at UCLA?

HOROWITZ: Disappointments?

BAHR: Well, things that you had hoped would perhaps go a different way.

HOROWITZ: It's hard for me to come up with something I'd put in the category of disappointments. I can't remember, at the moment, any lengthy processes we had under way where, to my dismay, the end result was contrary to the result I thought ought to have been there. I'm talking now about action on a particular personnel proposal. What else? I can't think of any others to add to the list now.

BAHR: Well, I think that's a very positive response and one that's good to hear from someone who's been there in the fray, so to speak. Who were the people with whom

you particularly remember enjoying working with?

HOROWITZ: There, I'm able to say, was a very large number of people. That's what made participation, as I saw it, attractive with a mission to accomplish, all in the name of achieving fairness and justice. What more can anyone have as a goal for professional activity than all of that?

BAHR: Any specific colleagues you'd like to mention?

HOROWITZ: Is there such a thing as an answer to that question that would not be attributed to me?

BAHR: Uh-huh.

HOROWITZ: Because I don't want to start listing who were the outstanding people and then have to worry that somebody's going to come up to me and say, How could you leave X off your list?

BAHR: Yeah, of course. I know, that's a pitfall of this question.

HOROWITZ: Well, the towering presence for me, all the time, has been David [S.] Saxon.

BAHR: Is that right? How so?

HOROWITZ: David is just a remarkable man, as I see it. I've always considered him my mentor in administrative matters. He's just very wise. Sharp as can be. Nice sense of humor.

BAHR: When did you first have an association with David Saxon?

HOROWITZ: When I first got started in the personnel process, I was on the faculty.

Ad hoc committees of faculty members are used to a great extent in the personnel process to make recommendations to the chancellor about the outcome of a particular case. I first encountered David when I went on the UCLA Academic Senate committee that was primarily interested in the personnel process.

BAHR: And what was David Saxon's position at that time?

HOROWITZ: David was the executive vice-chancellor. Personnel actions, which were designated by the regents or by the president [of the University of California]-- personnel actions designated for campus final authority--that's a better way to put it-- [These actions] focused on the vice-chancellor, who was responsible for that position on every campus of the university. That's where the action was, where the personnel process was maturing, performing the function that had been designed for it. I was on the Academic Senate Budget Committee, as it was called at that time, and I got to know David because we just worked very closely in that process. We used to have lunch every week. I would collect a stack of documents pertaining to an issue that I thought we ought to discuss. And as I say, he was just wise, tremendously wise and fair. Now, here is where I'm not quite sure where to go. When I say to myself, "Well, how about all the other people you had contact with? Which ones of those, if any, stood out?" Let me just-- I'll just chatter on here and maybe something will come of this.

In a totally different way, I had from my perspective--I hope he felt this way--a fine relationship with Chuck [Charles E.] Young. He was responsible for the whole

operation, and the personnel questions that we dealt with and procedural questions were part of the central aspects of that process. Chuck was responsible for implementing on the campus all the directives he gets through the president about how to run the university. There's always been a tension between local government, at the campus level, on the one hand, and state government, at the university-wide level, on the other.

BAHR: Right, we talked about that.

HOROWITZ: There are just lots of examples of where a campus says, "Don't tell us how to run this aspect of what we're doing; that's for us to decide." Finally, you had Chuck Young's determination that he would reappoint Angela [Y.] Davis after the regents, I guess, adopted the resolution that she should not be reappointed. As I've said before, I thought that took a great act of courage on his part, because people were saying, in effect, to him, "You ought to resign to make clear what the issues are here and how strongly you feel about them." And he didn't resign. I never thought he should resign. I mean, he was not administering the university in some foolhardy way. It wasn't that. There were people disagreeing with him about various things he had done on the campus or declared he would do on the campus. I respected him for that.

Let's see, where else, on the campus--? Saxon, Young-- I can't think of any I'd put up in the next tier. Perhaps Dean [Sherman M.] Mellinkoff of the [UCLA School of Medicine].

BAHR: What was it about Dean Mellinkoff that--?

HOROWITZ: Rectitude. I think I've got the correct meaning for that word.

Everybody's conscience.

BAHR: And how did he display this in your relationships?

HOROWITZ: Well, he was responsible for the personnel process in the medical school. So as a result, I had a constant continuing discussion about the kinds of issues we've now been noting.

BAHR: As I understand it, there were some special issues in personnel matters in the medical school. Outside consulting by the faculty, for example.

HOROWITZ: That's a perennial issue.

BAHR: Is it?

HOROWITZ: You have highly talented, professionally trained people. We're not talking about the humanities now, for example, but those in areas where there is professional practice, whatever that means. I state it with authority, and I'm not quite sure what it means in a narrow sense. Oh, here I have to ask you to get back to--  
What's the question again?

BAHR: There were special issues in personnel matters in the medical school in that doctors did outside consulting.

HOROWITZ: The geographic full-time issue, as it's called in medical school. You want them to be doing that. Presumably, they're going to better practitioners because they've done that. So as you can see, I put an overlay of the academic personnel issues on everything else. Other people, I'm sure, were asking me, perhaps not directly,

"How in the world can you be interested in that?"

BAHR: Really? People asked you that?

HOROWITZ: Maybe not quite that starkly, but--

BAHR: Because it seems to me to be a primary issue, personnel issues.

HOROWITZ: Well, sure, but lawyers who are interested in procedure can have pretty dull responses to a dull statement of their interest of that sort.

BAHR: What about members of the [UCLA School of Law] faculty? Anyone there that you particularly enjoyed working with?

HOROWITZ: Oh, yes. Here, it's a long, long list. In the dean's office, Dean [Richard C.] Maxwell and Murray [L.] Schwartz. Bill [William D.] Warren. Susan [W.]

Prager. They were all formidable people in carrying out their tasks.

BAHR: Let me ask you now if you recall challenges that you think UCLA met rather successfully during your tenure--certain challenges that the university was successful in resolving.

HOROWITZ: I don't know what the standard is. It would be nice if you had a measuring rod, and you'd just poke it in the ground--

BAHR: For success.

HOROWITZ: --and see how high the red fluid goes.

BAHR: Right. [laughs]

HOROWITZ: UCLA, for a lot of people, has been an exciting place for them to have their professional careers. So people who were participants in that effort have a basis

for finding satisfaction in what they did in the sense of accomplishment.

BAHR: Right, and somehow the university allows this, or provides a structure, for people to be excited about their work.

HOROWITZ: We're talking loosely, right now, about one aspect of this which can be viewed more narrowly from another aspect. The university does not exist to provide a platform for people to practice their professions and use tenured appointment at the university as a marvelous base for those kinds of activities, particularly if they are income-producing activities. Once you have faculty members spending too much time on non-university matters, still enhancing their ability as professional practitioners, as long as they spend their time within the range of that goal with being a faculty member, the university has to be careful not to squelch that kind of activity. But not unreasonably to enhance that activity. And there are a lot of people who don't have income-producing sources behind their professional positions in the university. I mentioned the humanities a moment ago. There's no latent pool of employee compensation that can somehow be brought into play-- Scratch that whole thing, I've lost hold of the sentence.

BAHR: No, you haven't. You were responding really beautifully, with great fluidity, about how certain segments of the faculty have access to added income from their professions. The so-called professional schools, as opposed to people in the humanities, who don't have that. Now, what kinds of issues would arise from this?

HOROWITZ: A sense of inadequate compensation for the totality of what the person

is doing in the university.

BAHR: By the someone in the humanities? Is that what you mean?

HOROWITZ: I think so.

BAHR: Now, in a professional school, what kind of problem could arise from this outside income situation? What kind of problems can that present to the university.

HOROWITZ: Getting less than its money's worth for the appointment of this person. You can put hypothetical cases that are extremely strained, where it would appear the individual is taking advantage of the status given by the university position, so as to have a successful private practice. When you talk about that in the medical school, you say, "Of course that's right." The medical school is going to be better for the fact that our surgeons are practicing surgery.

BAHR: Yeah, I would think so.

HOROWITZ: I've stopped in the middle of someplace here.

BAHR: Well, I think what you're talking about is balance--a balance between practicing your profession and between teaching. Am I correct?

HOROWITZ: Uh-huh. Well, this in its most recent form has appeared in the university as a requirement that came from the president's office or the regents, I'm not sure which. I had a point there, but it--

BAHR: Well, let me ask you this. If it gets out of balance, if someone in a professional school is furthering his private practice at the expense of his faculty responsibilities, how does this issue come to the attention of the administration.

HOROWITZ: We have requirements that every--what is it now?--five years, I think, there shall be a review of the personnel status of the individual. If the individual has stopped producing, is not functioning totally as a faculty member, you have to have mechanisms to deal with that sort of problem. The first way you deal with it, if it comes to the attention of the chancellor's office through a five year review that a particular individual is not--I've used the phrase before--giving the university its money's worth-- That's a funny way to put it, but I think the point is there.

BAHR: It comes to the attention of the chancellor's office, and then what happens?

HOROWITZ: You go back to the department chair, ultimately, and say to the department chair, "This individual has been appraised. Here is the review committee. Here is our interpretation of what this individual has been doing and whether we think he or she is a continuing positive benefit to the university. We suggest you inquire into this with this faculty member." That can end up with a very precise, detailed review of the work that the individual has been doing, perhaps with the conclusion that the individual should know that he or she will be on notice that lack of sufficient scholarly activity can jeopardize the individual's position at the university. I don't know, in recent years, if the university has ever moved to dismiss a faculty member for too much non-university activity, replacing that which he owes to the university.

BAHR: Where does the ultimate authority lie in--?

HOROWITZ: It's complicated. We talk about delegations of authority from the regents to the president, to chancellors, to deans, to department chairs, as you go on

the ladder of administrative judgments about how the individual is performing.

BAHR: Who has the ultimate authority in such a case?

HOROWITZ: As I said, that does get very tricky. It used to be that approval of a tenured appointment in the personnel process was limited to action by the regents.

The regents got involved in the day-to-day affairs of the university in a way that other people thought was inappropriate or just not as helpful as it could otherwise be. Some would argue then, "Well, if the chancellor can approve tenured appointments, you don't have to go to the president or to the regents." The chancellor, theoretically, ought to have the power to take a look at that appointment again and say, "Well, maybe we made a mistake. Let's catch that mistake now rather than let it build up and up and up over time and become a really horrific problem of a faculty member who is not producing, who's being, in a sense, censured"--not censured, I don't know what word it is--"by his colleagues for failure to perform to the full extent of the person's abilities." Some argue it ought to be the chancellor, who approved the tenure appointment in the first place, who can then set up a process to review that person's performance thereafter and perhaps withdraw tenure. Now, that's where people really get serious. That's an important question.

BAHR: Is that how the procedure works? What I think I hear you saying is that it's handled locally on the individual campus.

HOROWITZ: I've been away since this five-year review requirement came into effect.

BAHR: Oh, have you?

HOROWITZ: But I've been told by people who work with it that it is having a good deal of beneficial effect, as had been hoped. You get individuals who turn their attention to other endeavors, other subjects of interest for scholarly work, prompted by the review of their peers. One of the core, core elements in this system--

BAHR: One of the core elements in the review system?

HOROWITZ: I don't remember what the elements were going to be.

BAHR: Well, let me just step back a step. You were mentioning David Saxon, at the time that you met him, being responsible for personnel actions. Now, as time went on, you assumed that position. You were responsible for personnel action, am I right?

HOROWITZ: Uh-huh.

BAHR: What was it that you learned from David Saxon that helped you when you assumed that position.

HOROWITZ: Gosh, I don't know how to work out an answer to that question. Just the total activity he engaged in, which I had occasion to observe, but that's not saying very much.

BAHR: Well, perhaps it is a difficult question, because evidently it was the totality of the way he thought and acted that you admired. Am I correct?

HOROWITZ: I never heard him say anything that I thought was unwise.

BAHR: Really? That's quite a compliment. We've talked a little bit about the challenges that UCLA met. Is there anything you'd like to add to that?

HOROWITZ: What are we adding to? What did I say?

BAHR: Well, you talked mostly about personnel action, how that process was made more fair. I think what I'm asking you is, can you recall any other challenges--I don't want to say difficulties--that you felt that the university handled well when you were--?

HOROWITZ: There are always interests of individuals and how the personnel system runs in the university and sometimes they generate controversy. Non-university intervention, attempted non-university intervention in the personnel process, for example. That's always latent with the possibility of great confusion. Disappointment.

BAHR: Non-university intervention--? I mean, non-union intervention or union intervention?

HOROWITZ: Union?

BAHR: Yes. You're talking about union intervention now, right? I misunderstood what you said.

HOROWITZ: No. This is the first time the word union has appeared in our conversation. So I'm not sure-- The faculty of the university--with one exception, the [University of California] Santa Cruz campus--voted not to organize under the applicable California higher education collective bargaining statute. I believe I'm correct in saying there was not ever a really massive force under way to try bring about collective bargaining of teachers in the Academic Senate. There are a lot of places where the unions are recognized in the university. Everybody focused on the Academic Senate and the instructional program of the university. I'm not sure what

percentage of employees of the university are now unionized. That's all post my association with the academic personnel matters.

BAHR: But if I'm understanding you correctly, unionization was not an issue during your tenure. Am I correct?

HOROWITZ: Oh, yes, the vote--if I remember correctly--took place while I was still in office.

BAHR: Oh, so it was an issue?

HOROWITZ: Uh-huh.

BAHR: What were the arguments, pro and con?

HOROWITZ: Well, let me try to state that in a summed-up way. Again, I would not want to be associated with the comments that I make, because these are deep issues when you ask about collective bargaining at the university. The first reaction of a lot of faculty members and of academic administrators--I was one in that latter group--tended to be, "You're going to wreck the academic personnel system in the university." Because if you require bargaining in a classic labor-relation sense, you're going to have something different than you'd have if there were no bargaining. We like to say-- Before making a decision on a promotion, the chancellor shall consult with the appropriate Academic Senate committee or committees. Consultation can or can't be bargaining, in a collective bargaining sense. But there was fear that if graduate students could bargain over how much time they spent in the university for what wage--typical wages and conditions of employment--that's going to take away from the

department academic oversight of what goes on in the activities of the person who is a graduate student. That's the kind of issue that talk about collective bargaining in the university would generate.

TAPE NUMBER: VI, SIDE TWO

OCTOBER 20, 1999

BAHR: You've just presented the argument that was presented by other people against collective bargaining. What were the arguments for collective bargaining?

HOROWITZ: That absent of the authority to insist on bargaining before terms and conditions of employment are set, you would have inquiry being made-- Well, what's a good example? How many units ought to be assigned to course X? Course X has been developed by a faculty member, other faculty members teach it, they contribute to the books and whatever in the field-- Where am I going with this?

BAHR: We're talking about the arguments in favor of collective bargaining. Now, who determines how many units are assigned to a course? How would collective bargaining enter into that?

HOROWITZ: That's a strikingly educational issue--

BAHR: Yes, indeed.

HOROWITZ: --and the argument would run, not to be handled in a classic adversary position. I had an experience when we first got in the collective bargaining business that illustrates what I'm trying to say here. I don't know whether this will be of any use to you, but we use to have ongoing relationships with the University of California Faculty Association, which I think has a statewide dimension to it, as well as campus dimensions-- [pause]

BAHR: You were talking about your associations with the University Faculty Association.

HOROWITZ: Okay. There are faculty committees--senate committees--that deal with such issues as parking, requirements to obtain a degree. I used to work with members of the senate committees on various issues where they would ultimately be advising the chancellor about a matter, one way or another. It used to be argued that collective bargaining connoted adversarial positions, and the academic program, it was felt, would suffer if the tone of the relationship were advisory and consultative, not adversary. And the episode that I'm referring to has to do, in part, with collective bargaining. We were going to have a vote on the campus on collective bargaining and, among other things, the issue arose, "Where would the polling booths be located?" That's the sort of thing, absent a collective bargaining framework to it, you say in some ideal way, "Well, we'll all sit around and talk about it, and eventually out of that will emerge a consensus that will make all of us happy as can be with how it's going to proceed." But the idea was-- I don't know what you'd call it, an opposite to adversarial--

BAHR: Consensus?

HOROWITZ: What word?

BAHR: Consensus. But go ahead.

HOROWITZ: No, that's-- We arranged a meeting and came into the meeting room seeking to end up with a decision about this polling booth matter. I was fascinated to

see--it shows how naive I am probably--that the group of senate people came into the room in a body. The group of administrative people involved was present already, had distributed itself in the seats around the table. I decided that I was hearing something that was more adversarial than advisory and consultative in what was going on. And to me, it was an example of people taking on the roles they have somehow become assigned to play in an administrative organization. I'm reading too much into this probably, but to me I was always thought that was an illustration of the consequence of bringing the adversarial system into your administration/faculty relationships. My attitudes kind of changed or absorbed what I was seeing. And people were now performing the same ultimate role, but in a series of channels for discussion that would change profoundly from advisory to adversarial.

BAHR: Yeah, I can see that happening.

HOROWITZ: I remember that moment, because I thought I saw the potential for collective bargaining coming into play within the university. I wasn't quite sure in whose welfare that ultimately would turn out to be. I have to qualify all of this. I've been away from this so long, I don't know who the players are.

BAHR: No. We're only talking about your time. So where were the polling booths placed? How did that vote go?

HOROWITZ: Only on the Santa Cruz campus did the senate faculty vote a majority in favor of collective bargaining.

BAHR: Interesting.

HOROWITZ: Santa Cruz has a regime, then, that it follows under state law about what you do at what points in the academic year. It already appears a different institution.

BAHR: That's interesting. Let's talk for a moment about challenges that you see in the future for the University of California.

HOROWITZ: Well, one is adequate financing. That's an annual dance you go through in getting the budget prepared and approved. And continuation of minimally-- I don't want to say minimally adequate-- Continuation of adequate funding for the university programs is jeopardized, particularly when you have major reductions of programs-- Because you have major reductions or, if not reductions, standing in place, as far as the funding of academic programs is concerned. So that's a major challenge, obviously.

BAHR: Do you think this is going to be more of a challenge in the future?

HOROWITZ: You know, I can't really comment very well on that kind of question. The one who can talk about that kind of issue with absolute authority and mastery of the facts and understanding of what the issues are is the chancellor.

BAHR: Right. But this is an ongoing issue. Are there other challenges that you see for the University of California?

HOROWITZ: I don't have any to list here.

BAHR: What about this area in which you've been so interested, equality of education. Do you think there are any special challenges in the future for the

university in regards to equality of education?

HOROWITZ: How is that question different than the one we just talked about?

BAHR: I'm trying to get a little more specific with it, I think.

HOROWITZ: I'm not the one to have a wise, comprehensive, political view of the university, its place in California government and its place in public awareness and public appreciation and satisfaction with what is being done. I'm just not the one to try to--

BAHR: What I was looking more for was your own personal perspective from your years in the faculty and as an administrator.

HOROWITZ: Can I tell you something off the record? [tape recorder off] I think I'd like to keep that off the record. As I say, it's a naive statement.

BAHR: Okay.

HOROWITZ: It requires a lot of background if you really want to understand what wisdom there may be in that statement.

BAHR: Okay. I think we've just about come to the conclusion of our interviews, and I want to ask you if there's anything you want to add to these interviews? Anything at all.

HOROWITZ: Not just being asked that offhand and being able to remember specific details as we went through it. I assume that there will be a typed transcript--

BAHR: Yes.

HOROWITZ: That will give me an opportunity to answer your question a little bit

later if I get some ideas as I read the transcript about something that could have been pursued here or should not have been pursued there.

BAHR: I'm not looking so much for specifics. What I'm looking for is something I may have overlooked. If there was something in your experience at UCLA that I haven't brought up that you might want to add to it.

HOROWITZ: I have to be careful here to avoid looking like I'm pontificating on behalf of the faculty or on behalf of the administrators. No, I've gone as far as I can go with that point, unless you can think of another way to trigger a response.

BAHR: I'm wondering if there is something that I have neglected to raise in our discussions that you would like to raise now.

HOROWITZ: The best framework for me to try to raise such questions would be to see a transcript of what we talked about.

BAHR: Well, that certainly will be possible. I want to thank you, Dr. Horowitz, for your generosity.

HOROWITZ: Well, you're my link to the outside world, you know. I can't let go.

[mutual laughter]

BAHR: That's quite a responsibility. You've been very generous with your memories and your experience and I really want to thank you for this time that we spent together.

## INDEX

- American Association of University Professors (AAUP), 58-59
- Bakke v. University of California Regents*, 159
- Bullock, Paul, 137
- The California Oath Controversy* (book), 77
- California, State of: Constitution, 74, 76, 97, 100, 102, 103, 154; Governor's Commission on the Law of Preemption, 142-146; Governor's Commission on the Los Angeles Riots, 133-42; Legislature, 43, 89, 97-102, 103-4, 143; S.B. 251; Roberti bill, 88
- Canaday, John E., 42
- Christopher, Warren M., 134, 135, 139
- Cunningham, Thomas J., 48
- Davis, Angela Y., 39-64, 98-99, 139
- Deutsch, Harry S., 48
- Donnan, Christopher B., 116
- Ezra Ripley Thayer Teaching Fellowship, 119
- Flemming, Arthur S., 70
- Gardner, David P., 77
- Glasgow, Douglas G., 45, 46-47, 52-53
- Harvard University Law School, 20-24, 25, 26, 27, 65, 66, 119
- Hitch, Charles J., 41-42
- Horowitz, Adam Jonas (son), 4, 18, 39, 71
- Horowitz, Clara Zimring (mother), 1, 15-16, 19, 21, 38
- Horowitz, Elizabeth Marmorston (wife), 3, 34, 65, 66, 71, 147
- Horowitz, Lexi (grandson), 4
- Horowitz, Louis (father), 1, 19, 21-23, 38, 65, 71
- Jewish Federation of Greater Los Angeles, 27-28
- Kaplan, David B., 43, 45, 46-47, 48, 52-53
- Karst, Kenneth L., 30, 32, 43, 44, 45, 46-47, 52-53
- Levine, Philip, 39
- Los Angeles Superior Court, 45, 52
- Martin Luther King Jr. General Hospital, 139
- Martyn, Kenneth A., 137
- Maxwell, Richard C., 31, 166
- Mellinkoff, Sherman M., 139, 164
- Meredith, James, 130
- McCone Commission. *See* California, State of: Governor's Commission on the Los Angeles Riots
- McCone, John A., 134, 138
- Moore, Webster E., 45, 46-47, 52-53
- Pacht, Jerry, 52, 62-63
- Parker, William H., 137
- Pisar, Norma Mamorston, 65, 66-67
- Pisar, Samuel, 66-67
- Prager, Susan W., 166

Priest, Ivy Baker, 158

Roberti bill. *See* California, State of:  
S.B. 251

Saxon, David S., 40, 50, 51, 94, 162-  
63, 164, 171

Schwartz, Aron (grandson), 4

Schwartz, Hilary (granddaughter), 4

Schwartz, Lisa Horowitz (daughter), 4,  
39, 71

Schwartz, Murray L., 31, 166

Seavey, Warren A., 23

Serrano, John, 158

*Serrano v. Priest*, 148-54, 157-58

Sheridan, Thomas R., 140

Shriver, Robert Sargent, Jr., 120, 123,  
128

Sklar, Madelyne Horowitz (sister), 3,  
17

Slaff, George, 143-46

United States: Department of Energy,  
102; Department of Health,  
Education, and Welfare (HEW), 36,  
65-72, 118, 120, 121, 124, 129,  
131, 135; Department of Justice,  
129, 130-31, 141; Economic  
Opportunity Act of 1964, 147;  
Native American Graves Protection  
and Repatriation Act (NAGPRA),  
110-17; Office of Economic  
Opportunity, 120, 125-28, 147,  
148, 156; President's Task Force on  
the War Against Poverty, 119-24,  
125, 133-35, 141, 152; Supreme  
Court, 25, 37, 63, 64, 153

University of California: Board of  
Regents, 40, 43-44, 46, 48, 52, 56,  
57, 60, 62, 63-64, 74-76, 83-85, 89,  
92, 99, 100-102, 103, 159, 169,

170; Faculty Association, 175-76;  
Voluntary Early Retirement  
Incentive Program (VERIP), 105-6,  
108

University of California, Los Angeles:  
Academic Freedom Committee, 45,  
46, 47-48; Academic Senate, 42-46,  
48, 52, 56-57, 62, 76, 104, 105,  
106-7, 162, 172, 173; Academic  
Senate Budget Committee, 162;  
Council on Academic Personnel,  
91-92; Department of Philosophy,  
40, 43, 49, 62; Department of  
Political Science, 18, 48, 109;  
Fowler Museum of Cultural  
History, 112, 116; *UCLA Law  
Review*, 150, 157; Oral History  
Program, 50, 108; Privilege and  
Tenure Committee, 40-41, 46, 47-  
48, 81-85; School of Law, 149, 165;  
School of Medicine, 139, 164

University of California, Santa Cruz,  
62, 172, 177-78

University of Mississippi, 130

University of Southern California  
School of Law, 24-25, 118-19

Unruh, Jesse M., 98

Warren, William D., 166

Wasserstrom, Richard A., 31

Western Center on Law and Poverty,  
146-48, 150, 153, 156-58

Wilson, David A., 48

Wolves Athletic Club, 7-9

Young, Charles E., 40, 49, 54-56, 57,  
163-64