

Robert Stein

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Interview with Robert Stein

**Interviewed by Professor Clarke A. Chambers
University of Minnesota**

Interviewed on November 25, 1994

Robert Stein - RS
Clarke A. Chambers - CAC

CAC: This is Clarke Chambers. This afternoon, Friday, November 25, 1994, I'm doing an interview with Robert Stein, dean of the Law School. He has been at the University of Minnesota in many different capacities for many years. His reflections will throw a great deal of light, I'm sure, on the history of this sprawling university and its many provinces around and about.

As I suggested, before I turned on this machine, it's kind of nice to have a brief intellectual, academic autobiography. How did you get turned onto the law? What kind of a kid were you? Where did you study? Were there major influences that turned you in this direction for your career, etcetera?

RS: Thank you, Clarke. I am a native of Minneapolis. I was born when my parents lived here. I attended the public schools of south Minneapolis and graduated from South High School. I think that I began thinking about a career in law somewhere about junior high school . . .

CAC: Isn't that remarkable?

RS: It was one of those times when I had been elected to a number of offices and teachers tend to say to students who have an ability to express themselves, "You ought to be a lawyer."

CAC: [laughter] As though other careers don't require that as well.

RS: That's right. I had had no other lawyers in the family. In fact, I was the first person to go to college, that I know of, in my family going back many generations. I'm not aware, going back to about 1700, that any ancestors had gone to college. My own father had been in a farm community in western Wisconsin and dropped out of school when he was in elementary school.

My mother completed high school and then took a clerical job. My high school, South High School, now is, fortunately, one of the very fine high schools in Minneapolis; it's a magnet school and has been enriched. But, in the 1950s when I graduated, there were very few of the graduates going to college. I went to the University of Minnesota because it was the closest college to where I lived, not knowing what an outstanding institution it was. I feel I've been blessed in many ways. Things that I didn't know were as good as they were at the time were available. Having this notion to be a lawyer, I embarked on a program, which the university offered at that time, called . . .

CAC: This is in what decade? What years were you here?

RS: I came into the university in the fall of 1956 . . . a program of two years of pre-law and then four years of law school.

CAC: The 2-4 was still in existence then?

RS: The 2-4 was still in existence. This had been the idea of Everett Fraser, the long time dean of the Law School from 1920 until 1948. Fraser's idea was that lawyers were called upon to be leaders in their community and, therefore, should have a strong liberal arts education but should have that at about the time that they were going out to assume these responsibilities. So, in that fourth year of law school, one would take courses in the College of Liberal Arts [CLA] or SLA as it was known in those days . . . Science, Literature, and the Arts. Also, he introduced some notions of courses which pulled together various areas of the law. For example, he started a course in the 1930s on judicial administration that focused on the problem of the courts and case load in the courts. He pulled together a course called Modern Social Legislation after the New Deal days to pull together all of these new laws. He developed an ethics course . . . all of which were decades before their time at any other law school. Fraser was urging this upon other law schools—I'm still back in his deanship—and, in the late 1930s, about one-third of the law schools in the country were on this plan, including very good schools like the University of Chicago. Then, the war came and, of course, enrollments dropped way down. After the war, the veterans came back armed with the GI Bill, and the law schools were overflowing with students, and it simply wasn't feasible to keep students around for a fourth year.

CAC: They were eager to get on with their own lives.

RS: They were older and wanted to get on with their lives. Many of the schools in the country dropped the 2-4 plan in the years 1945, 1946, 1947 as the GIs came back. At Minnesota, it continued through the 1950s. It was dropped in about 1958 or 1959; so, I'm one of the very last persons to be admitted under it. In some respects, I think Fraser's idea was a very good one, that persons appreciate a liberal arts education as they get older and have more life experiences. I remember my courses very well in my last year of study. I also have to say, in retrospect, that if I were making the decision now, I would have preferred to go the normal way and get a bachelor of arts degree and then following that, a law degree. As it was, I received my bachelor

of science in law degree in 1960 and then my bachelor of law degree or J.D., Juris Doctor degree, in 1961, both from the University of Minnesota. I was on a fast track in those days, for reasons that escape me now, and I went to school in the summers as well; so, I actually collapsed the six years of study into five years by going three summers.

CAC: You must have been working while you were doing this as well?

RS: I worked. I supported myself. I married my high school sweetheart after entering the Law School so I supported a family during this period of time as well. I took a job practicing law in Milwaukee at a large law firm. I had been there just a year when the dean, Dean William Lockhart, called me and said that the faculty wanted to know if I wanted to come back to be a member of the faculty.

CAC: Had you considered teaching?

RS: No, I had considered a career in academic law. I had done well in school. I think I'm the first graduate of the school, summa cum laude, in its history. The faculty had offered me that position. I said, "No." The dean called again at the end of my second year of practice and I again said, "No." He called again in my third year. It's very, very flattering to be pursued that way. I came into academia, in one sense, reluctant to leave practice because I was enjoying the practice of law a great deal.

CAC: Were you established with a focus on probate at that time?

RS: I was doing probate work and estate planning in the firm and things had gone well for me in the firm. The senior partner in the firm had pretty much taken me under his wing. I was on the important committees, the hiring committee and that sort of thing; but, I was intrigued by this idea of joining the faculty of my alma mater.

CAC: You would be brought on to do speciality in probate?

RS: Right. The dean offered me a teaching position, teaching and writing in property law, and probate law, and real estate law. I decided to give it a try. I immediately fell in love with it. After being here just a short time, I couldn't imagine doing anything else because it was an opportunity to engage in ideas and I found I liked teaching a great deal. I liked the students; so, I've done it for the next thirty years.

CAC: I'm guessing your family probably were pleased to be back in Minneapolis?

RS: Yes. Actually, my wife is from Minneapolis and comes from a large family; so, she was happy to be back and my parents were here as well. It was returning to relatives as well.

CAC: Sure . . . and a school system and the cultural surround.

RS: It's interesting . . . talking first about the school system. I'm a great believer in public schools, being a graduate of the public schools myself. We raised our own three children in the public schools after we moved here. Each of them, then later, did very well in college. My oldest daughter did her undergraduate work at Harvard College and is a graduate of Harvard Law School. My middle daughter did her undergraduate work at Dartmouth College—she's also a lawyer—and got her law degree from Harvard Law School. My third daughter received her degree from the University of Minnesota and received her law degree from Georgetown Law School. All of them attended and were very well-trained in public schools in Minnesota, as was I. I've been very concerned the last twenty years as to what's happening to the public schools here. My colleagues on the law faculty are sending their kids to private schools; so, so many of the best and the brightest kids are being taken out of the public schools right now. I think that's a real tragedy because what's made our state strong is the very strong tradition of public education in the state.

CAC: I'm speculating from other academic families, you probably had an evening seminar at dinner on the law rather regularly or in community affairs at least with the children when they were young?

RS: [laughter] Apparently, that's the case.

CAC: They say it?

RS: I was a little surprised when all three pursued a career in law. They were exposed to this growing up and spent a lot of time on the university campus as children walking around over here.

CAC: The faculty brats . . . it socializes them quick.

RS: Right.

CAC: I read, seven or eight years ago, your history of the Law School and, then last week, have been rereading it. I don't think there's much point in the interview going through the detailed substance of that; but, there may be informal parts of that story that were not written about or reflections now that you've . . . You wrote that ten years ago . . . fifteen years ago?

RS: Fifteen years ago . . . About 1980, it was published.

CAC: Sometimes with the passage of time, one has reflections on things written earlier. You have reflected on Mr. Fraser's deanship. Do you have anything to add for folks who are going to be listening to this tape and then reading your history of the Law School?

RS: There are some interesting postscripts on almost everyone of the periods. The first dean of the Law School was William Pattee, who served from 1888—the founding of the Law

School—until his death in 1911. I termed that period a "Time of Accommodation" because Dean Pattee had to struggle with the very notion of the validity of study in a law school as opposed to apprenticeship in law.

CAC: Read the law in someone's office?

RS: In fact, Clarke, if we get a chance, I'd like to go back to that notion in second; but, let me just stay with Pattee for a minute. Pattee had to start a night school to make it possible for people to come. Basically, there was some question about the academic standards right at the beginning; so, I termed it a "Time of Accommodation." I was approached after the publication of the book by his grandson, Pattee Evenson, a very distinguished man in his own right. Pattee Evenson was a musician who had become a conductor of an orchestra in Los Angeles. Pattee was named after his grandfather and had a large collection of memorabilia about his grandfather and his grandfather was the most important figure in Pattee Evenson's life. Pattee came to see me from California and expressed concern that I'd called that time a "Time of Accommodation," when, in his mind, his grandfather had immediately established one of the supreme law schools in the United States. Indeed, he had a clipping from a 1903 newspaper that claimed that we were the third ranked school in the country.

CAC: [laughter]

RS: We had a series of conversations and letters in which I said to Pattee that I admired his devotion to his grandfather but that he had to realize that it was difficult for him to be objective since this great love and fondness for his grandfather existed. He had admitted that. Interestingly, out of that series, that started on a critical note, came a decision by Pattee Evenson to leave his entire estate to this law school to create a chair, which he wanted named after his grandfather. In those days, his estate wasn't quite the size that was required to meet the standards of a chair that the regents had established—this was before the [unclear] match had occurred—so, Pattee went to a cousin of his, Isabel Fryer, who is a descendant of Dean Pattee through another child, and asked her to leave her estate to the Law School as well. The two of them did leave a very large . . . Pattee Evenson has died. In the subsequent years, his cousin, Isabel Fryer, has made many generous gifts and we are in her will to receive her estate when she dies. That chair, which was established, is to be held by the dean of the Law School.

CAC: Ah!

RS: So, I now hold the William S. Pattee chair in the Law School.

CAC: Bravo.

RS: To me that shows how it's possible to begin to work with an individual who may have a concern. If they're showing a concern, it means they care about that institution. Then, to turn that to a way of positively supporting the institution . . .

CAC: I suppose this kind of leaping ahead. As dean, have you had to do a lot of that kind of currying of philanthropic interest?

RS: Oh, yes.

CAC: Through the [Minnesota] Foundation? How is that done?

RS: We put our gifts in the Foundation. It's been very fortunate. We had not had very much in the way of support before I assumed the deanship just because no one worked at it as hard in those days.

CAC: This is true for the university generally.

RS: Yes. The largest amount that had been given in any year before I became dean was \$100,000. That went up right away. In 1983, we passed \$1million a year and for the last eleven or twelve years, we've had over \$1 million in annual gifts a year. Last year, it was \$1.7 million. Our endowment, which in 1979 was around \$2 million, is now \$40 million in the Law School. We've been able to use the money . . .

CAC: Are these dedicated funds or mixes?

RS: The ones that come in each year in our annual fund are not dedicated. Indeed, 20 percent of our budget right now is supported by private gifts and income from endowment. We have about an \$11 million budget each year in the Law School and about \$2 million comes from private gifts and income from endowment.

CAC: This had come primarily the last ten, fifteen years?

RS: It's all come in since 1980, right.

CAC: One can certainly credit the dean. Are there other things to be credited? What happened in the legal profession in Minnesota that would make this possible?

RS: I think just communication. We've worked hard at causing every graduate of the school to feel like the Law School is part of their life today and not just a happy reminder of a place in the past. I think it's a product of communication and making them feel like partners.

CAC: But, you have to work at it?

RS: Oh, you have to work at it.

CAC: There's nothing in the culture, external to the efforts of the school itself, to reach out? What I have in mind, in part . . . I was surprised in rereading the chapter on [Carl] Auerbach to

see how difficult it was to raise even \$1 million out of \$15 million for the Law School itself when now, I should think, as you report, it would come more easily, not with a lot of work.

RS: It's a lot of work. In fact, we're hitting on a lot of subjects here that we probably should come back to.

CAC: I'm counting on you to keep me straight.

RS: Okay. As I see my colleagues, many deans, come into other deanships around the university, oftentimes, there is an expectation for instant results in development. They feel they will just make an emphasis on that; but, what you have to do is lay the ground work and communicate, correspond with, and bring people into the circle of the University of Minnesota family to make them feel like this is an important part of their life.

Clarke, I got off the track when I started talking about . . .

CAC: I took you off the track; so, you go back.

RS: . . . Pattee and the issue of learning law in the law schools. One of the things that I think I see better now than I did when I wrote the book is that legal education is really divided, in my mind, into three eras, almost divided by centuries. The first law school in the United States was founded in about 1780 by Thomas Jefferson when he created a professorship in law at William and Mary Law School. His old instructor, lawyer [George] Wythe, was appointed to that professorship. From about 1770, 1780, whenever that appointment was—it was at the University of Virginia that he made that appointment—until about 1870, law in higher education was taught like any other discipline. You would study the science of law in the judicial branch, the executive branch, and the legislative branch as an object of study, and analysis, and work, not just for individuals who wanted to practice law but as a branch of learning. In fact, probably most of the students did not become lawyers.

CAC: As constitutional law is often taught in schools of history?

RS: Exactly, very much like political science and constitutional law right now. In 1870, a significant event occurred; the first dean of the Harvard Law School was appointed whose name was Christopher Columbus Langdell. Dean Langdell introduced the Socratic Method of pedagogy in law schools in which he found he could put large numbers of students in a lecture hall, and call on one of them, and engage in a dialog in which, vicariously, all the other students participated.

CAC: Is this the introduction of the case method?

RS: He introduced the case method. This was the beginning of the study of actual cases to determine what the law was. Law study went, in its second century, from being really the study

of law as a discipline to the study of lawyering as a preparation for professional training. It's not surprising that within about twenty-five years after Langdell introduced the Socratic Method that the issue was totally over as to how one should prepare for the practice of law. Law school training was the almost universally preferred route and eventually all states required a law school degree as a preparation for training. There were a lot of consequences of the case method. It's a very effective form of pedagogy and many students react extremely favorably to it; but, it's a narrow focus of training also because it focuses on these cases as the ultimate source of information about the law and, therefore, it tended to close the study of law off from all of the other disciplines, from economics, from history, political science, all of the other areas of learning. As a result, lawyers became isolated.

CAC: They become technicians.

RS: They become technicians. In a case, lawyers feel that they could instantly train themselves to the degree that some other expert witness can so they can cross examine. There's a certain arrogance about all of this in our profession.

CAC: Sure.

RS: Then, in about the 1970s, law schools began to be more a part of the universities in which they belong.

CAC: Ahhh.

RS: It's been one of my major emphases as dean to build bridges to all of the other disciplines and to have joint degree programs, to have persons from other disciplines. For example, your colleague, Professor [Paul] Murphy, teaches in the Law School.

CAC: Yes, very distinguished.

RS: We have journalists teaching in the Law School and persons from other departments.

CAC: Ad[amson] Hoebel in Anthropology used to before his retirement.

RS: That's right. The scholarship expectations of faculty members have gone way up. We still require law faculty to teach all of their classes themselves. We don't use teaching assistants. We still expect law faculty to grade all of their exams themselves. We don't use grading assistants. We still have large classes. Many of our faculty teach three or four classes with over 100 students in them and they get many blue books in a three-hour exam.

CAC: You bet.

RS: Notwithstanding all of this, we've also adopted normative expectations that the faculty will engage in serious scholarship. In law, serious scholarship tends to be a longer piece than in some other disciplines, heavily footnoted and usually published in a legal periodical. I see, in one sense, in the third century of law schools, we're being pulled to the first century, that we're now a discipline. It's an obligation of a faculty member to examine the administration of justice and how laws of discipline can improve the social condition in the country . . . the justice condition. At the same time that's happening, the profession is making demands that we do a better job of educating our graduates to immediately go into the courtroom. The cost of lawyering has gone up so high right now that even large firms can't have in-house apprenticeship programs for their new hires and many of the recent graduates go out on their own where they can't get this apprenticeship after graduation; so, we've had the rise of clinical education in law schools where students learn lawyering skills of advocacy, and counseling, and negotiating.

CAC: This is open to all students?

RS: All students go through this. I really see a kind of pulling it all together . . . the first century being law as an academic discipline, the second century being law schools as lawyering schools teaching the skills of lawyering, and the third century really being both with a real schizophrenia in law schools these days to be more academic and, at the same time, provide more professional training.

CAC: The legal aid clinics fit into that and the *Law Review* in what way?

RS: This school was one of the first in the country to have a clinical experience. The second dean of the Law School, William Reynolds Vance, came here in 1911 and served until he left in 1920. He had a commitment to legal services; so, he worked out an arrangement where the head of the Legal Aid [Society] in downtown Minneapolis would hold a faculty position at the Law School and every student would be required to go down and practice for an afternoon as a condition of graduation.

CAC: Did Minnesota pioneer in that?

RS: Yes, we pioneered. I don't know of any school in the country that did it before us. That requirement continued from about 1914 until the mid 1970s when there was a renaissance of clinical education requirements in the country and a great desire to have in-house clinics. We started, in about 1973, to have an in-house clinical requirement and hire clinical faculty. Now, at Minnesota, by this year, 1994, we have about thirteen or fourteen separate clinics.

CAC: Heavens.

RS: We have students representing live clients in tax cases, in worker's compensation cases, in marriages and divorces. In criminal law, we have both prosecution and defense. Some students

prosecute cases for municipalities. Other students defend defendants. We have a federal prosecution . . .

CAC: Presumably, they are like interns in the Medical School but they don't have full responsibility?

RS: No. Our clinical faculty is the lawyer that supervises them and signs off in the cases.

CAC: This sort of education has been in the Health Sciences for a long time. Did it slip sideways or was there an initial inside invention of this for law itself?

RS: I think it was largely discovered for itself by law; although, the medical model is there. In many respects, medical education is a wonderful model to follow. In some other respects, it's not. Hopefully, law has been following the better and avoiding some of the problems.

You asked about the *Law Review*. The *Law Review* was not so much hands-on lawyering training but a student-edited journal.

CAC: It's down the scholarly side, synthesizing both.

RS: Right. Law is very unusual in that the most distinguished journals in the field are student-edited. It boggles the mind that a person's tenure chances ride on the shoulders of student editors who accept or reject pieces for publication.

CAC: Here at Minnesota, how are members of the *Law Review* board chosen?

RS: Historically, they were chosen by grades. In recent years, it has become, arguably, a little more democratic so that people can write their way onto the review. They submit a specimen of . . .

CAC: The decisions are made by the faculty or the dean?

RS: By the student board.

CAC: I see.

RS: We have a *Law Review* which started here in the early Twentieth Century and it's now in volume seventy-nine; so, we have seventy-nine years of the *Minnesota Law Review*. I'm proud that during my deanship two other student-edited journals began, the *Journal of Law and Inequality* and the *Journal of Global Trade*. We now have three student-edited journals.

CAC: And the journal *Law in Society*? I know it wasn't done here but is this part of the same . . . ?

RS: The *Law in Society* journal is one which was edited at Minnesota for awhile when Sam Krislov was editor. It is a journal which focuses on law and social sciences. I have been, for many years, a director of the American Bar Foundation which seeks to further that type of research. I am particularly supportive of it.

To go back to the other deans in my history . . . The third dean was Everett Fraser and he served from 1920 to 1948. We talked about Fraser earlier in connection with the 2-4 plan. He was, obviously, a very influential figure in this school's history. His son, Don Fraser, graduated from the school in the dean's last year as dean, 1948, and, of course, went on to his own distinguished political career.

CAC: Sure.

RS: Everett Fraser went out to teach at Hastings College of the Law in San Francisco and lived to be about ninety-five years of age. In fact, one of the great things about being dean of the Law School is the longevity of the dean.

CAC: [laughter]

RS: Fraser as ninety-five when he died. Bill Lockhart is now eighty-eight years of age and just retired from full time teaching.

CAC: Heavens.

RS: His predecessor, Maynard Pirsig, is ninety-two years of age. My immediate predecessor, Carl Auerbach, is seventy-eight and still teaching full time and was just [re-]married this last summer. It's a great position.

CAC: It's like being an artist or a musician. They have long life as well.

RS: Right.

CAC: I'm looking at the deans and I saw rhythm—historians sometimes look for generalizations—starting with Pattee, twenty-three years; Vance, nine; Fraser, twenty-eight; Pirsig, seven; Lockhart, sixteen; Auerbach, seven; Stein, fifteen. It seems that there are periods in the history of the Law School where there's been a very prolonged, solid deanship followed by one that is more ephemeral—perhaps, not in its influence or its consequences but certainly in seniority.

RS: I've focused a lot on the prior deanships myself as I've sought to learn the traditions of the schools and I've noticed that also. In fact, it was my hope to serve at least sixteen years as dean to equal that of Bill Lockhart. I would have completed sixteen years at the end of this academic year. There are a number of interesting things about the prior deans. The first two deans were

selected from the outside. Since then, every dean has been on the faculty at Minnesota before serving as dean. That's quite unusual, I think, in legal education. Pattee, obviously, was an outsider; there was no dean before him. Vance was brought in. Then, Fraser, who had been a dean at George Washington University before he came here and may have been hired with the thought in mind that he'd be dean, was appointed internally. Persig was pretty much his hand-picked successor. Maynard, who I thought attracted some very strong faculty to Minnesota, didn't enjoy the kind of support a dean needs to have to continue and so stepped down in 1956. His successor, Lockhart, had been a member of the faculty since 1946. Bill, in fact, had been associate dean of the school under Maynard. There was some question as to who should be dean. The choice went to Bill Lockhart. The other contender went to Berkeley that year for a visit and then never returned after that. When Bill Lockhart stepped down in 1972, Carl Auerbach was acting dean for a year and, then, the president made it permanent. I was a little unusual in being out of the school. I was over in Morrill Hall as a vice-president for Administration and Planning.

CAC: But, you had been a long . . . part of the dean of the Law School.

RS: I'd been on the faculty of the school since 1964. One of the big issues right now for the school is the relative preference of bringing someone in from the outside versus an internal appointment.

CAC: I raise a question, in part, in a relative context. When one looks at other parts of the university and the Central Administration itself, this university—I think it's true of universities the country around—eats up administrators. If you look at professional schools or the schools of basic discipline, IT [Institute of Technology] or the Arts College, the tenure is usually much shorter than it has been at least in the law school here or in the Health Sciences. You have had experience in Morrill Hall—we'll get around to that later before we're through—and it just seems there is something in the last twenty, twenty-five years that just makes it extraordinarily difficult to establish a deanship or a vice-presidency-ship that will see through for a long period of time.

RS: I agree with you.

CAC: Why is that the case? What's happened?

RS: My own experience here is extremely unusual. The average deanship in American law schools is under three years right now.

CAC: That's just like a departmental chairmanship rotated every three years.

RS: Among the 176 law school deans in the country, I'm probably two or three in seniority in the entire country.

CAC: It's very impressive.

RS: There have been a number of articles written on why this is. Everyone seems to agree it's not good for the colleges or the departments that they . . .

CAC: You hardly learn the job before you're gone.

RS: Exactly. I think a school needs to adopt some goals and move systematically in that direction and not have the constant turnover in leadership that occurs. In my own case, I've been blessed with a faculty that I truly like. I can say, they're not only my colleagues but my friends. In fact, I'm leaving with great sadness because these are the most important people in my life.

CAC: That speaks well of collegiality.

RS: It does. It is good. Of course, the support of your faculty is the most critical element in the whole equation. Students are another constituency. Students have their issues that they want to raise but for the most part are an enjoyable constituency to have around. They add life and zest to the school.

CAC: But they're [unclear].

RS: They're here three years and they're gone. The alumni are another constituency. In Minnesota, we're very fortunate. In my fifteen years as dean, I've never had one inappropriate demand by graduates as to what the school should do.

CAC: When you visit with your fellow deans, that's not true elsewhere to the same degree?

RS: Many times, there is a concern the bar is telling them what to teach. We've not had that experience here. The Central Administration is another important constituency and it's been a real revolving door for me. We could probably talk about this. I've worked with several presidents.

CAC: How many vice-presidents? [laughter]

RS: I'd have to sit down and count them.

CAC: It would be up to ten or eleven. There was a time there I think when there were six in five years.

RS: Yes, it's been a large number. The relationship of law to the rest of the university is interesting. There's always a little tension associated with this. Universities tend to be proud of their law school because it's a very visible college in a university. At the same time, there are often some areas of tension there because it's a professional school and some people, coming up through the Ph.D. rank, sort of question its role within the university. It's oftentimes somewhat isolated from the rest of the university. There are some reasons for concern; so, with every new

provost, or academic vice-president, or president, there's a need for the dean to sit down and really explain the Law School in a way that makes it understood. I think some deans have difficulties there, too, in getting along with their Central Administration. I've been very fortunate. The people I've worked with have all been very supportive of the school.

CAC: There is a Council of Professional School Deans ?

RS: Right.

CAC: I deduce from other evidence that there is a major rivalry—I shan't say hostility—tussles, with the Health Sciences and, frequently, a feeling that the Health Sciences are better financed, and more visible, and get more support from Central Administration than law and other professional schools. Is that a reasonable deduction?

RS: I think that historically there were some concerns about that. That hasn't been an issue during my years as dean. Back in Ken Keller's vice-presidency, the Council of Professional School Deans was formed. I was asked to be the initial chair of it. He requested that there be three councils formed: one of the graduate school deans, one of the undergraduate school deans, and one of the professional school deans. That's a very arbitrary classification because every school has some elements of all three.

CAC: Sure.

RS: Bob Holt chaired the graduate school deans' council. Bob disbanded it after a year or two. [laughter] He became frustrated with something or other. The undergraduate school deans' group, which included IT and CLA, became more of a place where information was disseminated rather than a place where real dialog occurred; so, eventually that withered away. Our professional school deans' council has continued for about ten years. In fact, several of the deans that weren't originally in it have asked to join. Julia Davis is now a member, as is Frank Kolacky and . . .

[End of Tape 1, Side 1]

[Tape 1, Side 2]

RS: . . . with issues that are present in the University of Minnesota, such as the reorganization which is going on at the present time. We talk about tenure and promotion policies from a dean's point of view. We talk about compensation issues, sabbatical leave issues. We create an agenda that has all of the issues that people are concerned about as professional school deans. Once a month, we get together. It's a place of dialog where everyone can express their point of view. Occasionally, we commission a paper, which one of the deans or a group of deans will do.

CAC: For your own use but also for Central Administration?

RS: For Central Administration. I have to say that one of the frustrations of the deans is that, oftentimes, it's dropped into a black hole in Central Administration and nothing comes back.

This is probably a good time to make this point, Clarke. I think that there would be unanimous agreement among the deans that I've served with now and over the past fifteen years at Minnesota that the deans of the university are a resource of the university that is under utilized in the administration of the university. The deans tend to be people who have been successful in their discipline and in recognition of this are given the opportunity to lead a college. They are fiercely loyal to the institution because they have responsibility to implement the policies of the institution and really perform a dual role of representing their college to the Central Administration and representing the Central Administration to their college. The deans have consistently urged a role that would involve them more in policy development than is the case; but, that hasn't happened and I think there's a great frustration level among the deans of the university.

CAC: In your judgment, why is it so difficult to pull that off?

RS: I'm not sure; I'll speculate. If it were an easy answer, some president would have [unclear].

CAC: [laughter]

RS: I think that the presidents get pressed on a lot of fronts. The governing boards have become much more activist than in the past so that the chairman of the Board of Regents and other regents will demand certain interface with the president. The faculty governance system has created many committees with which the president meets—this is all very good. I don't mean to suggest that it's not; although, sometimes I think there are so many meetings going on that real dialog and consultation doesn't exist. It's form rather than substance. The deans have not been a political group that have forced themselves on the president or provost in this way because they do tend to be loyal servants. Whenever the word comes down, they try to implement it. The other thing I should mention is presidents now have a coterie of bureaucrats around them, an assistant to government relations person, a university relations person, various people; so, when the president's cabinet meets, it's a group of bureaucrats surrounding the president. Again, this is not meant as criticism of these people. They may all be outstanding people; but, they're not the scholars of the institution who are committed to the programs of the university.

CAC: Or the chief mission of the university.

RS: I guess what I would like to see would be a president that would create a cabinet of either all of his deans or her deans or a selected number of them and, perhaps, selected faculty leaders that would be called on. That would be the group that would gather together to decide what the policy of the university should be on a variety of subjects and you'd get a broader perspective.

CAC: I've talked with people who have had positions in Morrill Hall, associate vice-presidents, etcetera . . . faculty and, then, they return to the faculty. Almost all of them report that they're so busy in Morrill Hall, they don't have time to think, or to plan, or to stand back and reflect upon broad policy issues. Does this match your experience?

RS: Yes, very much. I was there for just about three years. It was important work that I was engaged in. I was very busy all the time and I didn't get a chance to see faculty as much as I should . . . certainly as I do now. In some respects, I think the dean of the Law School's job is the ideal job in the university because I have the opportunity to be involved in university administration to the extent that deans do; but, I also work very closely with my faculty. I'm an inside dean as well as an external dean. I engage intellectually with every member of my faculty on their writing and their research and discuss with them what they're working on; so, it gives me that opportunity to have my hands on the real work of the university. I talk to them about their teaching. I talk to students. This sort of background should be filtered into university policy.

CAC: You, like other deans of the Law School, have also been teaching deans?

RS: Yes, I do teach as well.

CAC: This would be true of all of the others as well . . . perhaps, not at a full load, so to speak?

RS: Yes. I love teaching. I wish that there was time for more of it. It was a somewhat unusual move that I made to go from being a vice-president back to being a dean of a college. Sometimes people move from a college to Central Administration.

CAC: Yes.

RS: I wanted to have responsibility for an academic program and to see whether by pursuing a certain commitment that additional quality could be built in it. It remains one of my hopes that some university president will find a way of using the deans and faculty more effectively.

CAC: I hope we'll come back to the vice-presidency. Even though it was three years, they were three important years for the university and for you. I'd like to come back to the Law School briefly and ask you to reflect on . . . Your book stops with your becoming dean, which was an appropriate way for any historian to bring resolution on a book. What do you see as the contributions, the history of the school the last fifteen years of your administration?

RS: It's always hard for someone to be objective about themselves.

CAC: Sure.

RS: Let me tell you what I take the greatest pride in. Just so I don't lose sight of them, I'd like to talk about the faculty, our program, our library, and the external support.

CAC: Okay.

RS: On the faculty . . . we had been a school which had long been regarded as one of the good schools in the country but something of a farm team to some other schools. We would lose tremendous faculty to other schools all through the 1950s and 1960s. Mike Sovern went to Columbia and became dean and then president of Columbia. Arthur Miller went to Michigan and then Harvard. Charles Allen Wright went down to Texas and became prominent. Terry [Terrance] Sandalow went to Michigan and became dean. Jesse Choper went to Berkeley and became dean.

CAC: I'm going to interrupt. Was this churning of faculty common in other law schools at that time in the 1960s and early 1970s?

RS: I think so. Frankly, it continues today . . .

CAC: With other schools?

RS: . . . with other schools. There's a tendency in law to be very kind of status conscious of how you rank and so people have tended to move to schools that they perceived as being of higher distinction. I, obviously, have a great commitment to this institution. I'm a native of the state. I had my education here and have been a member of the faculty here for most of my career. I did teach for a year at the University of Chicago and the University of California-Los Angeles. One of the goals of coming in as dean was to stop that exodus. We did have a few departures in my first couple of years as dean. Quite frankly, in some cases, they may have strengthened us a tad. [laughter] In other cases, I was sorry the individual left. The last departure that we had of a person on the tenure track for another law school was in 1981; so, it's thirteen years ago. We've had people turn down deanships, endowed chairs, increased salaries, all sorts of things. In one year recently, we had a faculty member, who is a graduate of the University of Chicago, turn down Chicago; a graduate of Northwestern University, turn down Northwestern; a graduate of the University of Michigan, turn down Michigan.

CAC: What do they say is the attraction at Minnesota then?

RS: What we've worked really hard to create is a mutual commitment to building an institution that we're all proud of, a kind of a faculty of mutual support where people read each other's manuscripts, support one another's career. I've tried to make resources available. I frankly think we don't maybe have salaries where the private schools are; but, in terms of professional support, I think we can match other schools. We created chairs. In 1979, we had no chairs in the Law School. We now have twenty-eight chairs in the Law School.

CAC: Heavens. These all bring salary supplements as well as the distinction of a name?

RS: That's right, the cachet of the name and some professional support for travel, research, and writing. We haven't filled them all intentionally. I don't want this to be an entitlement that one has simply for being on the faculty. We have, I believe, about seventeen or eighteen chairs filled right now, which is a little under half of our faculty. We have some truly strong people coming up who will move into chairs later. That's been a critical part of the piece as well. But, more than anything else, I think it's mutually committing ourselves to saying, "This is as supportive a place for one's scholarly career as any other place one can be."

CAC: I know you have some other points you want to make; but, I want to stick with this one just a minute. My next question is going to be kind of a long one. I have heard in all the different provinces of the university that what has happened the last twenty-five, thirty years is a decline of collegiality, some would even say an utter loss of collegiality, and the identification of individual professors with a subspeciality of their discipline nationally so that they don't make this commitment to the institution. They make it rather to some subset of political science, or physics, or astronomy, or whatever it may be. The story you're telling runs quite against that.

RS: Right.

CAC: I've heard this story many places. You probably have observed it from being a university citizen.

RS: Yes, and I've observed it in law as well . . . the rise of subject matter specialities and networking that goes on in these groups in the Association of American Law Schools. It's just something we've worked at. I don't think you can take it for granted. The fact you say it's so on Friday doesn't mean it's going to be so on Monday. [laughter] You need to constantly strive to do this. We've done it through the chairs and professorships I mentioned. We've created a series of internal programs for faculty. We have brown bag presentations where people discuss their work in progress. We have colloquies where we bring in national leaders in other fields. We have a program where we just bring in scholars to spend a couple of days with our people here to talk about the work in progress . . . a whole host of things that are done. A few years ago, Dan Farber, one of our very best faculty, a superb scholar, received one of his many offers to go somewhere. That year it was the University of Pennsylvania that offered him a chair and a much higher salary than he had here . . . a private school, they would commit to sending his children to any college that his kids wanted to attend. Those are heady things.

CAC: The latter is a pretty big item.

RS: Yes. Dan turned them down, as he's turned down many, many schools; but, he came back and what he negotiated with me for—I use negotiate in sort of an unusual sense because we were both on the same side—was not for more money for himself but a commitment to create a program that would make this school as attractive for a faculty member as any law school could

be; so, we created something called the Center for Advanced Legal Studies. I went out and got some donors to contribute a significant sum of money for this. Dan Farber became the director of this center that we created. It was Dan's idea to just think about anything that could possibly enrich the intellectual life of the faculty in some way, be it a program, travel, computer equipment, whatever it was, and we would try to do it. We put on programs . . . faculty once or twice a year could sponsor a program where the top people in their discipline would come here and deliver papers, and we would arrange to publish them, provide the funds to bring people here. I think it's those sorts of things, Clarke, that have made this place where really a remarkable faculty right now exists and they've cast their lot with Minnesota.

CAC: I hear what you're saying and I'm very favorably impressed by it; but, I have to needle a bit more that what you're describing is really counter culture to what is going on in many other places. It's not universally the case, right? Because you are a university citizen, you certainly must have seen it?

RS: I have seen the departure of good people. In fact, it has saddened me at times to see people leave. A good example is Art Kaplan who left . . .

CAC: Yes.

RS: . . . the Center for Bio[medical] Ethics Study. Art received an attractive offer from the University of Pennsylvania. Basically, I think it would have been possible to keep Art here but the university, I felt, didn't strive to find what are all the things that could keep an individual here. In my case in the Law School, every time . . .

CAC: You don't think the ruckus in the Health Sciences would have played a negative role in that regard?

RS: I don't think so. I know Kaplan fairly well. I think there were some salary issues there that would have been difficult to meet; but, those are the challenges that an administrator needs to address.

CAC: Sure.

RS: What I have done here in the Law School is just to, when people do receive offers, find out what it is that will keep them here. I don't think it's a good idea to make big retention salary adjustments because, in the long run, I think you lose more people than you keep that way.

CAC: You distort the internal budget.

RS: It distorts the budget. What I have done here when those things come up is to say, "Trust me. You will be treated well financially; but, I don't want to give you \$10,000 increase right

now and lose *A*, *B*, and *C* who are also important to the school." The faculty have understood that. On the other hand, you've got to deliver on . . .

CAC: It's because they have a sense of collegiality.

RS: I think that's it.

CAC: As you describe it, this is really the crucial thing.

RS: That's the key. Money is important but not the only thing.

CAC: That may lead to other contributions you've seen the last fifteen years? You were going to speak of the library and other things.

RS: The faculty is very proud. The library, I'm also proud of. We're a large library . . . the sixth largest in the country. We started slipping in the 1970s. We were seventh, and then eighth, and then ninth. Volume count alone isn't anything; it's sort of a surrogate for the support that a library is receiving. We were able to increase the support. In terms of titles right now, which is a more significant figure, we're fourth largest in the country, which makes it a superb research library. We've tried to anticipate the move to the technological age by adding the appropriate new research bases there.

CAC: I hear what you're describing and, again, I must press you to estimate how this was possible because the resources of the University of Minnesota can't match many of the law schools throughout the country even within the Big Ten but certainly the great private schools. How was the library able to maintain? As I read it, back in 1945, we're second or third. Minnesota has stayed in the very top of that in a state that apparently wouldn't have the resources to do it.

RS: We, historically, had a wonderful library, as you point out. It derives from a man named Arthur Pulling who was hired by the university in 1915 to be librarian and he was here until 1942. Pulling was an unusual character. He was a wheeler-dealer who traveled widely throughout the world in the 1920s and 1930s. He would buy and sell books at stores in Europe. He had this uncanny knack to know when he could trade something; so, he'd buy another set of something he already had or something that he didn't want but he knew somebody else wanted. As a result, he built a rare books collection here that is truly a marvel. We have books from the Sixteenth Century and we have original editions of Anglo materials. We have originals of colonial materials. We have original Indian tribal treaties . . . all sorts of things in our collection. Pulling regularly over spent his budget. There are some interesting letters in the archives . . .

CAC: The Law School is autonomous from the library system generally? It was historically?

RS: The library is part of the Law School. In those days, he was getting letters of reprimand . . .

CAC: No, no. I mean the Law Library school is autonomous from the library system university-wide?

RS: That's right.

CAC: So, that you have you've had your own initiative?

RS: We've had our own initiative. I've seen letters from [President Lotus] Coffman and others chiding Pulling saying, "We hear you're a wonderful librarian but you just can't do this." I think that Fraser thought Pulling would never leave; but, in 1942, after being here for over twenty-five years, lo and behold, he left to go to Harvard Law School. He remained at Harvard for over fifteen years and is known at Harvard as being the greatest librarian in their history. Then, he reached retirement age and he went to, I believe it was, Vanderbilt and made another wonderful contribution for about ten years. Then, well into the age eighty, he went to Maine and became their founding librarian.

CAC: [laughter]

RS: He was a brilliant man for many schools. Pulling built the basis of our library. I felt, coming in as dean, that I was a steward of this great library. I felt that the future would look on me badly if that library wasn't at least as strong if not stronger when I left the deanship; so, I made that a high priority in the budget and rather than succumb to the temptation of attacking the book budget when there were retrenchments, I never retrenched the book budget; and I made a strong case to the university's Central Administration several times that when the university libraries received some funding that the Law Library should get a proportionate of that. Fortunately, we've been able to keep the collection budget up and had some good leadership there as director.

CAC: It wasn't only Pulling. How long was Bruno Greene here?

RS: Bruno was a wonderful librarian.

CAC: He had a long tenure. I'm asking a question—there's the temptation to declare it to be a fact or a generalization—long tenure with a good person can establish and maintain that continuity and strength whether of the deanship or of the library?

RS: Exactly, all those things. I agree with you on that. In our school, the librarian always has faculty status. Frankly, I think, on the university level, that that would be ideal also; although, we've had some good university librarians. The library has to be seen very much as part of the research and instructional . . .

CAC: It's their laboratory.

RS: Right, it's our laboratory. We need to have a collection development that just advances the work of the university.

On program, I'd say the most significant things of the past fifteen years have been the rise of clinical education, which I mentioned earlier. I won't go over that again. The other major aspect has been the development of the international dimension to our program. In one sense, law is very insular because it's the law of the United States. One of the frustrating things to me is lawyers and law scholars oftentimes try to develop their ideas and concepts in a vacuum without looking at the rest of the world to see how the same type of social problem is dealt with in a different culture, in a different legal system; so, we've been emphasizing international programs here. We had no agreements with universities in other countries in 1979. We now have an exchange with Upsala University in Upsala, Sweden, a program with Jean Moulin Université in Lyon, France, an exchange with Escuela Libre [de Derecho] Law School in Mexico City, with Christian-Albrechts University in Kiel, Germany, with Gdańsk University in Gdańsk, Poland, and with Fudon University in Shanghai, China. Under these programs, students come to the Law School; our students go there. We have two overseas summer programs where our teachers and teachers in the host country teach. We have faculty each year from all of these places; our faculty go there. We have joint research programs where our faculty are researching. For example, there's a big research project with some German professors right now on international environmental law and the extent to which the environmental law of a domestic country should affect international trade under treaties like GATT [General Agreement on Tariffs and Trade] and we have library exchanges. It's been an exciting development and I'm proud of it.

The other development that I said I'd comment on are the alumni relations. We have about 8,000 living alumni of the Law School. A little over 5,000 are in Minnesota and about 3,000 are in other states and countries. We are fortunate in having strong support from them. Each year about one-third of them contribute to our annual fund. As I mentioned, last year, they contributed \$1.7 million. This would be, among the 176 law schools in the United States, about sixth or seventh of all of the schools. Only one public school is ahead of us and that's Michigan, which has more than twice as many graduates as we do. We have better support than most of the private schools in the country. We've just been very fortunate in having a wonderful alumni.

CAC: You work at it. Do you have a developmental officer or are you it?

RS: No, we have one person. I believe in being lean. In fact, within the Law School, just generally, we have a much smaller administrative super structure than almost any other college at Minnesota and most other law schools. I do have one development officer. We don't even have a secretary for that person. I feel if you can get rid of a lot of the bureaucracy around running an institution . . .

CAC: A lot of the responsibility falls upon the dean?

RS: Right, and I, fortunately, have a good development director.

CAC: Before we turn to the . . . have you got other . . . ?

RS: [laughter]

CAC: We could go on for another three or four hours.

RS: I know. I'm proud of this place. I know we've got some other things to talk about.

CAC: The bridge is going to be awkward; but, I noted in rereading with care your history that in the early, mid years of the 1970s, the later part of the [Malcolm] Moos Administration that there was apparently a failure of the Moos Administration, or Mr. Moos himself perhaps, personally to share information, including most particularly the report of the American Bar Association's visitation and analysis of the state of the Law School. Is there a comment here from you on that?

RS: I guess I'd start with this. When I joined the faculty, O. Meredith Wilson was the president of the university. I thought a great deal of President Wilson and, in fact, have had the good fortune of communicating with him in his retirement years. His son, O. Meredith Wilson, Jr., graduated from our Law School and I remain in touch with him. President Wilson, I think, very much had faculty values and, to some extent, represented the bringing into the administration of the university the issues I talked about earlier of scholarship and teaching. One could often discuss one's research with President Wilson. President Moos came to us from another background and I felt was the beginning of sort of the technocracy in the administration. I didn't have a lot of interaction with him during his administration but did have some, particularly, as you point out, in connection with the development of the new law building proposal. I recall being in one strategy session in Morrill Hall when we were seeking to get an appropriation for the new Law School building and President Moos came in and talked. He went into sort of a monologue about law that seemed almost irrelevant to the subject that we were discussing. He said to one of his assistants that he thought when we went to the legislature he should give his talk on due process of law, which apparently he'd given some other place. I could see some of his vice-presidents sort of looking at one another, and looking at me, and kind of recognizing that he just really wasn't providing the kind of leadership that we needed. That was something of a shock to me because, as a member of the faculty, I really didn't know that much about what went on in the president's office. I could see that quite a change had occurred from the days of O. Meredith Wilson. Would you like me to continue with this kind of analysis, Clarke?

CAC: Oh, please. Then, we'll lead into your vice-presidency.

RS: I think that the objection that the regents had to Malcolm Moos and the legislators had is that he wasn't responsive to issues that came up . . . in part, maybe it was this sort of focus on his speeches, which is what he was very proud of. So, in looking for a successor, the university,

after a couple of explorations with other people, selected Peter Magrath. Peter is a very smart individual and he certainly is responsive. My sense is, as an historian—you may have your own thoughts about this—that almost every decision that's made is a reaction to what went before; so, if there was something that you didn't quite see in the prior regime, you look for it spades in the next regime. Peter, who came out of the SUNY [State University-New York] system had a reputation for being responsive and he was here at Minnesota. Whereas, Moos might not have responded to an inquiry about something, Peter would give a massive response to overwhelm you with information about what had come up. So, we began to have our people in legislative relations work with the money committees in the legislature, and the legislature would just keep asking for more information, and Peter would just give more and more information back. In one sense that was good. We were responsive. But, in my view, the negative side of that is we started to focus on the very small number of legislators who were voting the appropriation. We began to move away from the broad legislature, the people's legislature, to remind them what a great university we have. I think we ceased letting the rest of the state know how important the University of Minnesota was to the quality of life that we enjoy by having this very narrow focus. Peter also was very much like the genre of university presidents, that I've since seen a lot of places, of being very much in technical control of the university, building up the language of the administrators and that sort of thing, beginning to separate from the faculty and the longer range mission of the university.

CAC: And you were able to see that from the inside because it was late Magrath that you were vice-president for Administration and Planning?

RS: Yes. How I came over there . . . in the late 1970s, a position of vice-president for Administration opened up and there was some concern among the faculty leaders that Magrath would appoint one of his assistants to that position; so, the Faculty Consultative Committee demanded to be the search committee for the position—in fact, they were. The interesting thing . . . they recommended four candidates for the position. It's interesting in light of hindsight. One was Al Link, who was then an associate vice-president for Academic Affairs. Another was Ken Keller, who was then a faculty member at the University of Minnesota in Chemical Engineering and had been active in the Senate. Another was Nils Hasselmo, who was then an associate dean of CLA and then myself.

CAC: [laughter]

RS: Peter offered the position to me and I began in December of 1977.

CAC: Who had held that position just before you? Was it Don Smith?

RS: Don Smith had held it earlier. The gentleman that held it just before me left education to go with Honeywell. His name will come to me as we talk.

CAC: The job was defined? There were portfolios?

RS: There were portfolios . . . a fairly large budget. The personnel system reported to me. Intercollegiate Athletics reported to me. Emergency Preparedness reported to me. It was about half line responsibility and about half staff to the president. I asked Peter when he offered me the position if I could have Planning as part of the responsibility and he said, "Yes." Planning wasn't being done very well in those days; so, he was eager to have anybody that wanted to do it. In fact, we started a Planning process that I'm proud of. I wish it would have been continued as well as it was. I held the position until December 31, 1979. Probably the more interesting aspects of it, in retrospect, were some of the staff assignments that were given. An example is—Hubert Humphrey died during that period of time—the Foundation started a fund drive to create a Hubert Humphrey School of Public Affairs out of the School of Public Affairs which we had. It was an example of a fund raising program getting way out in front of the academic program. They raised quite a bit of money . . . about \$15 million in a short time; but, we didn't have the academic plan to support it. So, Magrath asked me if I would take responsibility centrally for the Humphrey school until we could get a director appointed for it. I just spent my time keeping my elbows out so that the money wasn't spent —people that wanted a lecture series or other things—until we could get a strong director.

CAC: How long an interim was that?

RS: It was about a year and a half or two years.

CAC: Then, John Brandl took . . .

RS: Brandl was kind of an acting dean. Then, Harlan Cleveland came in as the first . . . actually, John Adams . . .

CAC: From Geography.

RS: . . . was in there for awhile also as a kind of an interim dean of the place.

CAC: That would certainly fall under the Planning.

RS: Yes. We had something called a Planning Council in those days that was meeting regularly but was more process oriented than result oriented. We started a planning process. I asked a professor in the School of Management to assist us name Carl Adams. Carl is a very able person. We set in motion a planning process. Quite honestly, ideally, I think Planning should occur in Academic Affairs because it's very much a part of the academic mission of the university. The vice-president for Academic Affairs in those days was Henry Koffler and Henry was not interested and not able to take that up. What I felt my role was was to try to just get a process in place that would plug into the decisions that Academic Affairs would have to make. When I left the vice-presidency to come back to the Law School, Nils Hasselmo was appointed my successor. Nils continued that planning process for the time that he held it until he later went down to Arizona to join Henry Koffler. Then, after Nils left the position, the university really

sort of backed off of its planning activity. I've been disappointed the last ten years or so that we don't seem to look down the road very far to see where we're going.

CAC: You saw from the outside then the planning that went into Commitment to Focus when you were not part of the inside Planning group there?

RS: Right.

CAC: That certainly was an assertive effort to . . .

[End of Tape 1, Side 2]

[Tape 2, Side 1]

RS: Commitment to Focus was the primary program of President Ken Keller. Like most things, it reflected the strengths and the weaknesses of the person that's associated with it. Ken is certainly a brilliant individual and has very strong academic values. I think he also has a great belief in his strengths and a certain certainty about the correctness of his opinions. I think there was not wide consultation in the development of Commitment to Focus. It emanated from a paper that Ken did when he was acting president of the university following Peter Magrath's departure. In fact, when Ken was originally appointed to that acting position, it was on the condition that he not be a candidate to be the permanent president. Then, he did this paper on Commitment to Focus which was so well-regarded by the regents and others in the university that there was a general feeling that that condition should be changed and that he should be appointed the permanent president. The reason I mention that . . . to some extent, you need to get the community to accept the idea and one of the real strengths of the demands of leadership is not only to have a vision and articulate it but to persuade the constituency to adopt it.

CAC: Some elements of Commitment to Focus were underway when you were vice-president for Planning?

RS: Yes. What Ken did was to try to pull together a number of things that were already underway and to give it a focus. For the most part, I very much agree with the goals which he expressed. The problem, I think, is that either through Ken's expression or the media's criticism or whatever, it came to be known more for its negatives than its positives. What was stressed was we're not going to accept high school graduates from Minnesota unless they do such and such . . . we're not going to do this . . . we're not going to do this. The positive side of it was not expressed as strongly as it should have been, which is that we're going to try to create a university of great quality in Minnesota that will serve the needs of the citizens of Minnesota so that the young people of Minnesota don't need to go out of state to go to school but they'll have quality programs right here in the state that will serve them as well as any university. That, I think, was what caused Commitment to Focus to be so controversial. Then, when Ken had difficulty on some other issues, it caused him to resign from the university. This proposal was

tied to him and had some negatives associated with it. While I think that Nils has tried to pursue many of the goals of Commitment to Focus, he never really embraced the name or claimed to be continuing in the tradition of Commitment to Focus. I say that—this maybe sounds more self-serving than I should say—because in the Law School, I think the people of Minnesota will embrace excellence and quality and we've always tried to state that here, that we've seeking to be one of the quality law schools in the United States. What is necessary is to focus on the positives of why we want this—to go back to the University of Minnesota—why quality departments in History, and Economics, and Political Science, and so forth are extremely important to the citizens of this state and to not let the critics get caught up on the negatives. I think a Land-Grant obligation in the 1990s means something very different than it meant in the Nineteenth Century. When we had only the University of Minnesota as an institution of higher education, there was a greater obligation to accept all students for higher education at the university; but, these days, we have our state university system, our community college system, our vocational-technical institutions. So, Land-Grant obligation needs to be seen, I think, in context of the entire higher education system. We need to integrate what we have with these other systems and, I think, provide capstone courses that will enable our brightest and best students to fully develop their knowledge and intellectual powers in an area, sometimes after starting in one of the other systems and graduating to our system. I guess this is a long, round about way of saying that the goals of Commitment to Focus were quite admirable; but, somehow or another, it was just not expressed in a way that made it politically acceptable.

CAC: Did you have much experience working with the legislature at any time or committees thereof?

RS: Yes . . . more in Central Administration. The deans are not used very much at the legislature.

CAC: Except for the Law School . . . that had to be. You weren't dean then, of course.

RS: I was chair of the building committee from 1968 until 1978; so, I did make the argument for the Law School building over there. In another capacity—my field of law is, as you mentioned, probate trust and property more generally—I've, in all my years at the university, gone over and testified about law improvement in those areas; so, I do know a lot of the legislators.

CAC: Good. Do you get a changing sense of the legislative support or perception of the university in its many different parts?

RS: I earlier said that I thought one unfortunate consequence of President Magrath's focus on the money committees is we ceased to make the university's case to the legislature more generally. I don't think the university is well understood by legislators right now. I think they think of it as just another part of our higher education system rather than the institution which has generated so much of the knowledge that has made Minnesota such a special place to live.

CAC: For the most part, except for an element of the Medical School at Duluth, the professional schools are here alone on the Twin Cities campus.

RS: Yes. The professional schools, of course, are a place of applied research maybe as much as much as any other place . . .

CAC: But, extraordinarily important to the citizenry and to the legislature.

RS: In many respects, they're the place where the mission of the university comes in contact . . .

CAC: In practical ways.

RS: . . . with the citizens of the state. I think there's a political explanation here, too, Clarke. The university, in my opinion, fared very well, in strange ways maybe, under Republican administrations because while Republicans generally may not have had as great a commitment to education as the Democrats, the administrations of Minnesota understood that the university was at the apex of the educational system in the state and strongly supported it as an investment in the future of the state. The Democratic Party, while arguably having a stronger commitment to education, tended not to differentiate between the University of Minnesota and all the other systems, including the K[indergarten]-12 system. Therefore, the university had to struggle pretty hard for its share of the educational dollar.

CAC: The shift occurs in the early 1970s, does it not?

RS: Oh, yes.

CAC: That's when the DFL takes . . .

RS: As I look at it, I don't see this as partisan issues in a sense, except to try to explain what was going on. We just haven't made our case in the last twenty-five years of why it's necessary to invest in the University of Minnesota as a way to invest in the future of Minnesota. We've been viewed as just another educational institution at a time when a lot of educational institutions have come into being. You can trace our declining support as a percentage of the state budget regularly through this period of time.

CAC: This may be an appropriate time to lead sideways into Intercollegiate Athletics because one of the great legends . . . It may be more than legend . . . that will be my first question. Does it help to have a winning football team with the legislature?

RS: [laughter] I'll give you my opinion on this.

CAC: Say something about your connection. You pick up this portfolio as vice-president.

RS: Right.

CAC: But then, for the next thirteen, fourteen years, you are actively engaged?

RS: Yes. Athletics reported to me when I was vice-president, from 1977 to 1980. In 1981, I became faculty representative for Men's Intercollegiate Athletics and continued until . . .

CAC: Representative to the Big Ten?

RS: To the Big Ten, and the NCAA [National Collegiate Athletic Association], and to the hockey league, the WCHA [Western Collegiate Hockey Association]. Then, for a period of time when acting President [Richard] Sauer made a change . . .

CAC: That's who we were thinking of earlier, Dick Sauer.

RS: Right . . . athletics reported to me again in the late 1980s. I'll give you my opinion.

CAC: How did you get into this business? Was it the vice-presidency?

RS: Yes.

CAC: You weren't an athlete in high school or college?

RS: I was on the track team in high school. That accelerated program I was in in college didn't leave time to participate and I'm not sure my skills were adequate.

CAC: You were running but not on the track team.

RS: [laughter] Right. I had been interested. I'd attended intercollegiate athletic events but had had no interest beyond that point. Since then, I've taken it primarily as an assignment; although, I developed a fondness for the people that I met in the area. My answer is that it is important for a university to have a strong intercollegiate athletics program. I recognize that this is a subject of considerable dispute among people in the academy. I see it as an activity that can be a bonding activity between the faculty, and students, and staff within the institution, and the institution and the people of the state. It really is, in a way, totally illogical. Just because a university has a strong football program does not make it a better university by any means—some people may argue the contrary. I've seen this firsthand through my attendance at NCAA and other sporting events nationally that when a school is able to do well in athletics, somehow or another, the participants in the school just take pride in their university because of the attention that it receives and the people of the state single out that university, as compared with all of the other colleges and universities in the state, and more cheerfully support their representatives making larger appropriations to it. I do believe that a successful athletic program has a very positive influence on the status of a university.

We have an athletic program with two departments, men's and women's, and eleven sports in the men's and, I think, ten in the women's. Frankly, we've been doing quite well, particularly on the men's side, in many sports. In hockey, we're perennially a national contender. In basketball, we've been playing in post season competition. We've won the Big Ten in gymnastics in most years. Our swimming program is very strong right now in the new natatorium. Our tennis team has been a Big Ten champ. Our wrestling team is among the best in the country. But, much of that is invisible with this over-arching importance of the sport of football. [laughter] Football is a unique American sport. There's really nothing like it in the rest of the world. We have about 120 players on a team, a large number of coaches. I have said to the department that they're getting almost to having one coach for every position on the team. They can give now up to eighty-five scholarships to play the sport. It used to be ninety-five; but, we cut that back [due to] the national legislation, to some extent. Personally, I wish that football was played with a slightly smaller number of participants so that it would be easier to achieve gender equity. There is no sport comparable to football on the women's side; so, you need to add several sports just to compensate for football. Of course, on the women's side, for the most part, you're talking about expenditures and not revenues. It's fairly expensive within the university to find the funds to create all of these athletic teams when there's so much need in the English Department, and the Political Science Department, and so on for funds.

Having said all of that, I think that it does benefit the university to do well in football. I believe it is possible to do well in intercollegiate athletics and have an ethical program that stays within the rules. I'm hoping that our fortunes improve here at this university.

CAC: During the years you were there, there were a number of real serious problems. I would imagine that, in the position you held, you had to address them? I'm thinking, for example, of the removal of the basketball coach following the Madison [Wisconsin] basketball caper. I'm thinking in more long terms, but without the controversy the same way, of the efforts to balance the women's and the men's issues, which you have mentioned. Could you say something more about that? It seems to me the possibilities for controversy . . . for a dean and a professor, that's pretty hard going.

RS: I was involved in most of the things that you talk about because I brought a legal background into the area.

CAC: That helped you?

RS: I was perceived as having a background . . .

CAC: I see. In what particular ways?

RS: The ethics of problems of rule violations here in Minnesota are very much like a court of law. Similarly, gender equity is a kind of legislative type of act. Let's start with the rule violations first. On the positive side, Minnesota, at least in the last twenty years that I'm familiar

with it, has not had scandals based on booster funds being used to pay players or violate the rules. I think our culture in Minnesota is one of a higher ethical standard—knock on wood. It only takes a few people to cause a problem. For the most part, our problems have not been people intentionally trying to get an edge. What caused our problems is sloppiness in management of the programs. It's a hard thing to know how to regulate. The pressures are so great. The NCAA doesn't know how to regulate pressures and the inordinate attention that athletics get where the leaders in the community become like groupies around these football players.

CAC: How do you monitor personal behavior . . . in the case of the Madison basketball scandal, that was the case?

RS: What the rules are are just a series of bright lines where they say, "Step across this line . . . You can have someone out for two visits but not three. You can have one meal and not two."

CAC: When it comes to the behavior not related to income or fellowships, then it becomes another matter of difficulty, doesn't it?

RS: When you talk about the Madison incident, the problem there was the behavior of the players. You have to keep in mind that the players were, in fact, later exonerated on the charges; so, we can't assume that they committed them. In any event, the behavior was such that we weren't proud to have this occur associated with a team under the Minnesota name. I think that there were some players recruited into the basketball program at that time whose character was such that they should not have been part of the sports program. It's a legitimate issue as to how you treat athletes. The basketball coach at that time, Jim Dutcher, believed in treating the athletes like adults, just expecting the best of them. Of course, in some cases, he was let down by the way they behaved. The current coach, Clem Haskins, who was appointed to replace him, has the opposite approach. He's very paternalistic to the team and just sort of monitors their every movement. He tells them where to go, and when to go, and what to do. You can make a case for both approaches. In the case of our team at the time of Jim Dutcher's presence here, it led to a great deal of embarrassment in the state as to what happened.

The other major scandal that we had in the 1980s was the Luther Darville case. Luther Darville had a scheme for, basically, embezzling funds from the university in a fairly clever way and built up a fund of tens of thousands of dollars. Then, he was dishing this out to individuals on the university campus. Darville was the head of the office of Minority Students and was not in the athletic department. In fact, some people in the athletic department did not want to have Darville around the players. Of the students that he was giving money to, most of them were not athletes but some of them were; and, of course, that is against the rules to give money to athletes even if you're dishing it out to others as well. When that scandal broke, we hired an investigator from the outside who specializes in doing this sort of work. Most of the rule violations that were discovered, Minnesota itself found rather than the NCAA. I think we wanted to demonstrate by

the vigor of our investigation that we wouldn't tolerate this sort of thing that went on without knowledge and consent. However, they were discovered, this was a source of embarrassment to the state and certainly to the people at the university.

CAC: Yes.

RS: The program can't stand many of those or people will say, "However important football is, it's not worth the gamble."

CAC: Could you throw light on the process of bringing a kind of equity between the genders, between men's and women's athletics.

RS: There's no question that women students deserve the same opportunities to compete that men students do. The imbalance that we had in the mid 1970s is not acceptable when talented women athletes would not have an opportunity within a university setting to develop those talents and men did. In any time of transition, it's tough to accomplish your goals because of the funds that are involved. Particularly in the case of athletics, it's difficult because state funding does not go into the men's program. These are self-generated funds. We decided to have two departments here at Minnesota. We're one of only a handful of schools that have two departments right now. This means if you take part of the funds that are generated in the men's department and move it to women's athletics, it's taking funds from one department and moving it to the other. To put it in an academic context, it would be like taking funds from the English Department and giving it to the French Department. This causes some tensions. The people that generating the funds say, "We don't have any incentive to generate funds if somebody else is going to spend it and they don't have the same spending controls that we have."

CAC: In the position you had, how could you argue with that?

RS: It's tough.

CAC: [laughter] What did you say to the coaches or maybe some coaches are more open to this than others?

RS: What we said and what I believe is "Gender equity is an imperative." We need to demonstrate that we're moving towards that every year. I think in the long run we will have only one department of Intercollegiate Athletics. I see the two departments as a transitional step. In no other area do we divide the discipline by gender and I don't see why we should in athletics. Right now, politically to merge them I think would be hard because that would be viewed as lessening the commitment to women's athletics. In the long run, I think it's advancing the commitment to women's athletics to have one department and then insure that your funds are equitably spent on the women's golf team as well as the men's golf team. Beyond that, what we simply have to do is provide an equal opportunity to compete and this is frustrating because does that mean we should curtail men's opportunities to make them more equal? That's the part that

we're struggling with right now. Take football for example . . . there are eighty-five scholarships in football but the team typically has another twenty to thirty walk-ons without a scholarship just for the opportunity to put on the uniform and play. In the women's sports, they do not have walk-ons of very many numbers. It's just a different culture. So, if in fact we say we need to have a ratio of no more than 60 percent of the athletes being men or even no more than 50 percent of the athletes being men, does this mean that we say to these twenty to thirty men who want to walk-on in football, "You can't do that. Even though we're not going to give you a scholarship, we simply won't give you the opportunity to put on a uniform and be part of the team." Or should we say to the women, "You should have some walk-ons. Why not have some players that you don't give scholarship to come on in addition on your teams even though that isn't a culture of women?" These are hard issues.

CAC: It must have called on enormous diplomatic skills on your part.

RS: [laughter]

CAC: Did you ever talk with Sid Hartman . . . regularly?

RS: Oh! yes. [laughter]

[break in interview]

CAC: We're talking about men's and women's athletics.

RS: The athletic cultures were different than the academic culture and you can only explain why it's in a university in historical terms. In its purest form, when you have competition between highly skilled young athletes, men and women, it's really a beautiful thing to observe. The ideal of developing body as well as mind is certainly a wonderful ideal. It's when all of the distortions of contemporary society get involved, that lead themselves to unhealthy emphasis, that you begin to wonder why it's here.

CAC: Do you have any anecdotes of your experience? I suggested Sid Hartman, whom all of us read almost daily. He has just been a bulldog about men's and women's issues.

RS: [laughter] I have a lot of Sid Hartman stories. I won't bore the tape by going through them. He's an individual who certainly cares a lot about the success of the athletic program at the university. In that sense, his heart is in the right place. On the other hand, he has a certain notion of how that's to be accomplished that isn't always consistent with how we think it should be done. I think it's hard for Sid to understand that the times are different now and that women have the same opportunity that men do. In his own mind, he sees the problems of transition. These are real problems to take from person and give to another; but, we have to find a way of getting there to provide that equal opportunity. It is more complex than people appreciate if they're not involved. Within women's sports, for example, there's a tradition that all sports should

be emphasized the same. I think there's a feeling among many women sport's leaders that the men's model of emphasizing football and basketball is unhealthy. It has introduced distortions. There's a desire to treat every sport the same. On the other hand, if we are to move into a situation where programs can generate some revenues on their own to help support them, we need to select out certain programs for emphasis because we just don't have the funds to be the best team in the country in ten sports. This dispute that's going on right now where the basketball coach and the volleyball coach have brought a law suit, adversely comparing their salaries to the men's coaches, in a sense is as much a conflict with the other coaches in the women's department as it is with the men's department because it goes right to this issue of do we want to take some sports and raise them to a higher level on the women's side just because we've done this on the men's side? These are difficult issues. In the two times I've been involved with athletics, back in the 1970s when I was vice-president, I had a study done on the cost of achieving gender equity or the things that needed to be done and then in the late 1980s when athletics reported to me again, I retained a young graduate student in the School of Education to do an updated analysis of that. I think the university is still working off of that last one today. The goal is recognizing that we're not there to just make some progress every year toward it and recognizing it's a difficult challenge in a time of short money in the university. When we need money so badly in all of our academic programs, it's hard to give athletics a higher claim on the dollars than academics. We try to just take it year by year and make some judgment about what more have we done for the women's program this year to bring it a little bit closer to the goal of gender equity.

CAC: You must personally have come to have a real commitment to this issue, however. It must have been wildly distracting from your priorities in the Law School as dean on a weekly, daily, monthly basis?

RS: It was another issue. One of the things that I tried always to do was to compartmentalize and when I'm wearing my faculty representative's hat to think about that.

CAC: This is really a personal question. What forces in yourself enabled you to make this commitment for a long time when your priorities of the deanship must have taken precedence? I don't want to read too much into your . . .

RS: It's a fair question to ask. It just was another way of serving the university. There have been many times that I've been called upon to do things. One time, three or four years ago, the general counsel of the university resigned rather abruptly and expressed a number of concerns about the office and the provision of legal services within the university; so, I became acting general counsel of the university for about a year, maybe a little longer than that. I did a study for President Hasselmo on legal services. I have, at various times, been called upon to do something centrally and have done that. It's just in the case of athletics, I had a longer term. I had two successive six-year terms as faculty representative. As I indicated, I really did like the people involved. They're good people who are very pleasant to work with.

CAC: I was going to lead that way in one of my questions because I find talking with very diverse folks around the university, not all of whom had administrative experience, that they've all observed or had direct contact with the increasing burden of litigation. You speak of the office here at the university. When I came here, Joel Tierney was it and he did mostly real estate and property for the university. Now, the legal costs that the university bears with its own staff, plus contracts with private lawyers, must be an enormous drain. So many people, who can't add up the dollars, know what the drain has been in time, and energy, and morale. That's a big question.

RS: It's, unfortunately, a sign of the times . . . that we are a litigious society. One of the areas where most litigation has occurred is in employment relationships which affects a university very substantially.

CAC: Yes.

RS: Most of our litigation are with our staff, and faculty, and other employees. Historically, you're right; Joel Tierney was the university attorney. I think he had one assistant that might have been part-time. In the three years that I was vice-president, oftentimes the central officers would turn to me and say, "What do you think about . . . ?" a legal subject. When I came back to be dean of the Law School, Peter Magrath entered into an agreement with me to be a special advisor to him on legal issues and I sat with the senior officers of the university for many months, maybe a year. After talking about this with Peter Magrath, we decided to create, first, a committee to study whether a general counsel ought to be established; so, I chaired a committee in 1980 that had on it Warren Spanous, who was then the attorney general; Earl Larson, I think was on it, who was a federal judge; John Pillsbury, who is a lawyer/executor around town; Mel Stein, who was a lawyer on Wall Street, a graduate of our school. We made a recommendation to the president to establish the office of General Counsel. I nominated one of the law faculty to be the first general counsel, a man named Steve Dunham, who served for a number of years in the 1980s as general counsel. Litigation picked up quite a bit because of a consent decree the university had issued with the Rajender case. Then, Steve Dunham left the university to go with his wife to Colorado. Surrel Brady was the general counsel at the university for about a two-year period. Then, she left, as I mentioned, fairly abruptly and I was acting general counsel for a year or a year and a half in Nils Hasselmo's early years as president. Then, Mark Rotenberg was appointed as general counsel. You are right; we now have several attorneys engaged in work on behalf of the university. We hire outside firms. The claims are there. The demands for legal advice on proceedings within the university are such that there's just a heavier demand than there used to be. In the new job I'm going to as director of the American Bar Association—if it's any consolation—we have the same concerns there. Even in the organization of lawyers in the country, there's concern about how much we're spending on legal fees because of claims that are being made. It's, I think, an unfortunate sign of our times.

CAC: Can you comment with expertise from the legal side on what this litigation does to an institution. I guess I'm not asking a lawyerly question but really an administrative or political question.

RS: I think the consequences are much more serious than just the costs. We have I think moved closer to a labor management kind of model within the university.

CAC: That's what I was wondering about.

RS: I think this is very unfortunate for a university. I still believe a university is a collection of scholars that do research and teach the students and that the administration is a supportive body that attracts the resources and makes it possible for the scholars to do their work. As we get into this model of litigation and process, we become more and more like companies where there are employees and there is management. I think this has very harmful consequences for the academy that far outweigh the costs that are involved in this. We need fair procedures; I certainly wouldn't argue against that. That's important; but, unless there are people with a spirit to comply with the mission of the university . . . People can avoid any process that's developed . . .

[End of Tape 2, Side 1]

[Tape 2, Side 2]

RS: The white race will be a minority in our country and so we must make efforts to ensure that among the academy are individuals from diverse backgrounds. I get concerned about attempting to do this just by process. What happens is we generate so much paper and unless people are willing to pursue those goals, all we do is fill up our files with paper showing that we followed the process and nothing changes. I think the thing to do is to bring together the faculty and the leaders of the departments and say, "This is our goal. We need a more diverse faculty"—to use that example—"and how can we go about doing that?" and not to assume the process is going to produce the results. I just don't think that world-class scholars answer advertisements in the newspaper. They've got to be sought out whether they're white males, white females, or members of other races. I think you need to actively recruit to have a quality faculty.

CAC: Some have observed that we have done better with the recruitment of students and the holding of students either the undergraduate, or in the professional schools, or anywhere in the university than we've been able to do with diversity in the faculty and professional staff. Do you think that's an accurate kind of general perception?

RS: I think so, yes. I've seen the figures. I don't think with all the process that we have that the composition of the faculty is changing these demographics all that much. I think the best way to get there . . . I guess what I'm saying is I don't think a network of reaching out in recruiting people is a bad thing so long as you attempt to reach out and recruit the kind of

diversity that you want in your faculty rather than assuming that a committee running advertisements is simply going to review those people that apply and find the best persons.

CAC: I note that you were recognized by the Minneapolis Urban League in 1981. Was that for work in diversity or for work in the league itself?

RS: I've not been a member of the Urban League. That was for work here at the university.

CAC: Oh, good. Of what sort? I'm not asking you to boast but an award is a . . .

RS: We've had a pretty good record here. In the current year, our student body is about 22 percent minority students.

CAC: That's higher than any place in the university community, I would guess?

RS: Yes. We have, basically, a 100 percent graduation rate of our minority students and they graduate on time, in three years. We have about ten applications from minority students for each one we accept; it's about the same ratio as for majority students. On faculty, we now are 30 percent women, which among the leading law schools is a good record, and 11 percent minority faculty on our tenure track faculty. It's the result of working hard to bring about that result.

CAC: Does it reflect in any way a different pool than other professions or other graduate programs might have or is that beyond our capacity to guess?

RS: That's something empirically measurable. I think that there have been a lot of minorities attracted to law in the last twenty years; but, it's hard to know which came first here. It was about twenty years ago that law schools began to make a real effort in this direction and it's produced a larger pool that we have right now. I do think that there are opportunities there in some other disciplines that, perhaps, aren't being as fully recognized or realized as possible.

CAC: At this point . . . I've had fifty interviews and I kind of get an intuition that maybe we're tired but maybe we've covered many of the basic points that we should. Do you have any reflections beyond the particulars that we've had here or any omissions that you really think should be on the record for posterity?

RS: No reflections on omissions. I think you've steered the conversation into a lot of important areas. As you say, we could talk for hours about any one of these things. About the university as a whole . . . it is such a great university. I don't know whether you and I may feel that more from being natives of the state and spending so many years of our careers here or . . .

CAC: My father was a bachelor's in 1900 and an M.D. in 1905.

RS: That's wonderful. I worry a lot about the future of the university because it is such an important university to the people of the state and among the great universities in the land. Our support has been consistently declining, as we noted earlier, for about twenty-five years now. It seems harder and harder to sort of pick out the centers of excellence in the university from just the large organization which is there. Somehow or another, I hope that we can find ways to articulate the value of the university to the state and to ourselves so that we can return to those principles that are the central principles and try to make us strong in those regards. I think the result on that issue is far from certain at the present time. I worry about that quite a bit.

CAC: Many of us do. On that thoughtful note, I think we will recess. I certainly thank you very much. I know you're between jobs and flying from one place to another. It was very kind of you to share these two and one half hours with posterity.

RS: Before you push the button, let me just say that you have been one of the great strengths of this university during my years here, Clarke; so, it's an honor to be interviewed by you. Thank you very much.

CAC: Thank you.

[End of Tape 2, Side 1]

[End of the Interview]

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