



Daniel Bernstine

July 8th, 1997

Oral History Interview

Interviewed by: Barry Teicher



BEGIN TRANSCRIPT

TEICHER: This is Barry Teicher of The Oral History Project. Today is July 8, 1997. I'm in the Law School Dean's office of Daniel Bernstine, who will be taking a job at Portland's, is it university?

BERNSTINE: Yeah, Portland State University.

TEICHER: In a?

BERNSTINE: Portland, downtown Portland, Oregon.

TEICHER: When will you start?

BERNSTINE: I feel like I already started, but officially right after Labor Day.

TEICHER: Okay. I was very fortunate. I found out about Dean Bernstine [00:00:30] leaving just about a week, two weeks ago. I think it was very gracious and allowed me a couple of interview sessions. So, here we are today. Let's just briefly go back into your past. Tell me where you were born, a little bit about your childhood, your early schooling.

BERNSTINE: I was born in Berkeley, but actually grew up in a city called Richmond, which is right in the Bay area. I have, well now, I had three sisters [00:01:00] and a brother. Basically working class family. My father was a laborer but mostly a janitor for most of his life. And then my mother didn't work after I was born, said that I kind of put her out of commission.

TEICHER: Where did you fit in?

BERNSTINE: I was in that kind of indistinguishable middle. I was the fourth of five. I wasn't the first son.

TEICHER: You suffered all the outrageous things...

BERNSTINE: That's right. At least that's the way I...that's my story when I go home."

[crosstalk 00:01:31] [00:01:30] .

BERNSTINE: That's right. That's my story when I go home. Probably a little bit exaggerated but at least it works sometimes. Kind of an intact family throughout. My parents were together all of their lives, pretty normal childhood.

TEICHER: What about your schooling?

BERNSTINE: Well, I went to [00:02:00] elementary school and junior high right in the neighborhood. And then went to high school also kind of in the city, in the district but not in the neighborhood. My elementary school was pretty much all black because it was just kind of the

neighborhood. Then the junior high school kind of became I'd say maybe three quarters black, and the rest were non-minority.

TEICHER: This was a working class neighborhood.

BERNSTINE: Yeah, yeah. [00:02:30] It became less working class from elementary school to junior high school. Then my high school was predominantly white and not necessarily, well working class but maybe people who were more likely to be executives and that kind of thing. I guess in terms of the prosperity per capita of the students in my school increased [00:03:00] as I went from elementary school to high school.

TEICHER: When did you start beginning to think you might go to college?

BERNSTINE: It's hard to say. I mean, my parents certainly didn't go. My father finished the fourth grade. My mother finished the eighth grade. It wasn't really, but there was almost kind of the expectation that I would go. It's kind of hard to say [00:03:30] exactly when I decided because I kind of always assumed I would.

TEICHER: Did your parents, they supported that?

BERNSTINE: Yeah, yeah. Even though they really had no concept of what college was about. They just knew that it was probably the thing to do.

TEICHER: [inaudible 00:03:46] Were there any teachers that you had who were an influence on you in those early years, high school, grade school, who might've said go, go?

BERNSTINE: Not really, but I mean, I was [00:04:00] fortunate enough to be in the usually, you know, they have that tracking system. I was usually fortunate enough to be in the highest track. I guess I was kind of always in a group of kids that, certainly from junior high school and high school, I was in a group of kids where the expectation was that people were supposed to do well in school, which translated eventually into people going to college. Certainly in my high school [00:04:30] suspect that the vast majority of the kids that at least in my track and probably a couple tracks below went to college. I mean it was just, so I was just in a group that...you know.

TEICHER: What about your siblings? Did they go?

BERNSTINE: My sister, I have a younger sister who, four years younger, and she graduated from Stanford and is a physical therapist in Houston. [00:05:00] Actually works for the school system. My brother went to college but actually after the both of us did and got a degree in art from Cal State-Hayward, which is actually where I started out in college.

TEICHER: Is he an artist now or teaching art?

BERNSTINE: No, he's the kind of guy that likes to stay by himself. I haven't seen him [00:05:30] in four years. I don't know what he's doing. I'm not sure. He says he graduated from college.

TEICHER: Okay. Did you apply to any other schools? Did you consider any other schools besides Berkeley?

BERNSTINE: Actually what I did is I went to Cal State Hayward for a year because I was going to play football. I ended up deciding that [00:06:00] I wasn't going to play football, pretty much once I got there. I just transferred to Berkeley after the first year.

TEICHER: Okay. When you went to Berkeley, you said in your CV that you majored in poli sci and minor in soc.

BERNSTINE: Right.

TEICHER: Why did you happen to choose that? For the same reason I chose anthropology?

BERNSTINE: That's exactly right. You just stopped in A, you know. I went to P, that's all. [00:06:30] Well, I guess too, I was probably thinking about going to law school. I guess, like many students, mistakenly believed that poli sci was the best preparation for going to law school. As a matter of fact, doesn't matter what you major in, [00:07:00] in order to get into law school, and I don't think the poli sci prepares you any more to succeed in law school than most other disciplines. In some ways it was a mistake on my part, misinformation.

TEICHER: What should you have majored in?

BERNSTINE: Well, actually when I was at Cal State Hayward, I was also thinking about med school, so I took a lot of science courses. [00:07:30] Then I decided that, and although I was doing well, I decided it just wasn't for me. I really had thought about law school for a long long time. That's kind of what happened.

TEICHER: When did you start thinking about law school?

BERNSTINE: It's hard to say. I used to help my father clean up this lawyer's office, and I'd be [00:08:00] cleaning up and see the stuff sitting around. I'd look at the stuff, and looked kind of interesting. I said, "Hey, I could do this." For my father, I think, it was kind of like the only real profession that he knew, and then he knew it only because he cleaned up this guy's office. He worked also for the city, and so, I mean, he saw a lot of lawyers because he cleaned up the jail and that kind of stuff. I think he perceived that as kind of [00:08:30] -

TEICHER: Were the lawyers in jail, or were they -

BERNSTINE: Some of them may have been. Some may have been.

TEICHER: Was it out of a sense of moving upwardly mobile, or was it a sense of social -

BERNSTINE: No, no, I think for him it certainly was upward mobility and I suspect for me too, the upward mobility. And, just not having to punch a clock. It's good clean work. Indoors.

TEICHER: [00:09:00] When you graduated from Berkeley, you were pretty much intent at that point?

BERNSTINE: Yeah, I'd already decided, yeah, pretty much. I'd also been accepted in the PhD program at the School of Education at Berkeley, but decided that law school was really what I wanted to do rather than the PhD in education.

TEICHER: Education had been something that you had been thinking about -

BERNSTINE: Yeah, yeah, yeah.

TEICHER: In administration?

BERNSTINE: Not really. Probably just [00:09:30] teaching. Administration I just kind of fell into.

TEICHER: We'll get to that a little bit later on. Interesting seeing how you fell into that, as you said. Which law schools did you apply for or to?

BERNSTINE: Well, let's see, I applied at Davis, which was actually a brand new law school at the time, UC-Davis, Hastings, Northwestern, Howard, and Harvard. Didn't get into [00:10:00] Harvard. Got into every place else. Decided I wanted to go to the East coast to go to law school, so I went to Chicago.

TEICHER: Had you ever been away from Berkeley before?

BERNSTINE: Well, I'd been on a trip to Louisiana with my family once and been down to Tijuana as a teenager. That's pretty much kind of the extent of my travels. [00:10:30] For a Californian, Chicago really is the East coast. I mean, when you think, most Californians when they think of the East coast, they say well from Chicago on is the East coast. I had really no concept of kind of what I was getting myself into weather-wise for sure. I'd been in snow before, but we used to go on snow trips. You take the bus, go up to the snow, and turn around and come home. Actually I'd never seen snow [00:11:00] fall from the sky before. I'd seen snow, but I'd always gone up on a nice, clear day. Snow was on the ground.

TEICHER: It was already there, yes. Just before we get to law school, did you enjoy the weather, or how'd you feel about it?

BERNSTINE: Hate the weather. I still do.

TEICHER: I've lived here a pretty long time, and I feel pretty much the same.

BERNSTINE: I refuse to get used to it. I accept it, but I refuse to get used to it.

TEICHER: Does that have something [00:11:30] to do with your going to Portland?

BERNSTINE: Well, I certainly, one concern has always been weather. I want to go someplace where weather doesn't determine so much of what I do with my life. Having grown up where Christmas could be 70 degrees, but it certainly was not going to be any lower than 50, that's my idea of a great Christmas [00:12:00] day. Yeah, so weather certainly had something to do with it. I mean, I certainly would have taken the right opportunity even in a colder climate, but all things being equal, weather has become increasingly important.

TEICHER: Let's get back to Northwestern. Tell me a little bit about law school. Did you enjoy it?

BERNSTINE: Not really. It's kind of hard to enjoy law school. It was [00:12:30] okay. It was a lot different from being at a place like Berkeley. I suspect the whole law school was smaller than some of the classes that I had at Berkeley. Went from a school of probably 25,000 students to a school of 500 because the law school's downtown.

TEICHER: Mm-hmm (affirmative).

BERNSTINE: Law schools even on a campus like this tend to be kind of islands unto themselves. For most [00:13:00] students, we're talking about the 950 students here, that's the main group that they interact with even though we're sitting in the middle of campus. That's pretty typical of law schools. Northwestern wasn't even on the main campus. It was right downtown with the med school and the business school. There was an even further kind of isolation. When I went to law school, it was basically the four or five hundred students that sat in that building every day. [00:13:30] I wouldn't say that I liked it, but didn't dislike it. It was there, something I had—I mean, I had to do it to get out and practice, and so I did it.

TEICHER: I'm not very familiar with law schools at all. Do you have sort of a specialty that you go into in law school?

BERNSTINE: No. Well, now increasingly students are able to specialize, but generally speaking, the answer's no.

TEICHER: It's just a basic.

BERNSTINE: Yeah, [00:14:00] just kind of the basic stuff.

TEICHER: Did you find yourself drawn to anything?

BERNSTINE: Towards the end, I liked labor law a lot. That actually was my first job out of law school. For me it was as much just kind of getting out. If I had to say there was something that I really got drawn to in terms of substance it would have been labor. [00:14:30] Coping of unions and management. My father was a big pro-union guy. I mean, I've kind of been, had pretty lousy jobs in some ways, punching clocks. Work was the only kind of thing I could relate to, I think.

TEICHER: Well, that makes sense because of your background.

BERNSTINE: Yeah, yeah. Contracts and a lot of the other [00:15:00] stuff that you talk about in law school was really just kind of foreign to me, but I did know that people have to go to work every day.

TEICHER: Was there any particular course that you didn't like?

BERNSTINE: I mean, there were some I didn't like, but it probably had much more to do with the individual faculty member than anything else. I think you got the regular mix of people [00:15:30] that were good, some who weren't. Again, I guess I just saw it as much more functional. Hey, you gotta do three years.

TEICHER: You do it.

BERNSTINE: You do it.

TEICHER: Were there any professors there who influenced you or who you think -

BERNSTINE: I'd say actually a couple people, one I didn't even have, Vic Rosenbloom, who is actually still on the faculty who had actually just come back from being the president of Reed [00:16:00] College in Portland. As it turns out, his daughter-in-law is on our faculty too. She just joined us from Northwestern two or three years ago. He's been someone that I've kind of stayed in touch with and over my career has kind of been an advisor. I'd say somebody [00:16:30] like Vic Rosenbloom. The other guy, the really kind of strange connection when you think about it, the dean of the law school at the time was a guy named Jack Ritchie who was born and raised Virginia. I call him a Virginia gentleman. I had him for Trusts and Estates. I think in some ways he influenced me in the way [00:17:00] he just related to people. I mean, he was clearly kind of a Virginia aristocrat, but he was just also very much down to earth. His course was pretty basic. As it turned out, he had been the dean here before he went to be dean at Northwestern.

TEICHER: So, Wisconsin [crosstalk 00:17:27].

BERNSTINE: Yeah, kind of all over the place yeah.

TEICHER: [00:17:30] When did you start thinking about what you were going to do after law school? What were your thoughts about where you wanted to go after law school?

BERNSTINE: Well, I wanted to get a job, and I ended up getting a job at the Labor Department. At the time I was married. My then-wife who was also in law school but a year behind really wanted to go back to Washington, D.C. And so the combination [00:18:00] of getting a job in Washington meant that I went to Washington. Did that for about a year and a half too.

TEICHER: What was your job?

BERNSTINE: I was in the legislation legal counsel office, the Office of Legislation: Legal Counsel. Basically what we did was we reviewed legislation that had, either legislation coming

out of the Labor Department or legislation that affected the [00:18:30] department. Drafted testimony speeches for the secretary, that kind of thing. Probably the place where I learned my writing skills. My writing skills probably got honed.

TEICHER: That sounds very interesting.

BERNSTINE: I was in an office where detail, perfection was really cherished. Even though it was a government office, I mean, so again, you know, that kind of Wisconsin people really expected you to perform at a pretty high level. Actually Jim Jones, I don't know if you talked to him.

TEICHER: No, I haven't talked to him yet.

BERNSTINE: Been at that office before, so [inaudible 00:19:12] Wisconsin.

TEICHER: I should interview him.

BERNSTINE: It was a place probably where I learned that the only way you can really write something that's vague is to know exactly what you don't [00:19:30] want to say. I mean, because a lot of times students will write something, and it's vague, and they think well, that's just the way lawyers write. Well, it's being intentionally vague, and then there's being unclear. Right, right, right. There's a distinction. You can only be vague when you know exactly what you don't want to say. Being in an office where the secretary had to go [00:20:00] and testify, you knew exactly what it is that the secretary shouldn't say, but you had to figure out a way of coming kind of close to it without boxing the secretary in. It took some skill and learning, but I think it really allowed me to figure out.

TEICHER: Great training.

BERNSTINE: Yeah.

TEICHER: From there, is that when you applied for the Hastie?

BERNSTINE: [00:20:30] Yeah, actually what happened is I went out to recruit lawyers for the Labor Department at the National Bar Association Convention in San Francisco. I was sitting in the booth. This guy came up to me and sat down and turned out he had worked in the Labor Department, had a career in the Labor Department, and it was Jim Jones. He was out looking for people to [00:21:00] be the first Hastie fellows program that he had.

TEICHER: Had Jim Jones started that?

BERNSTINE: Yeah, it was basically Jim's concept. I was supposed to be recruiting lawyers for the Labor Department and ended up getting recruited by Jim to do the Hastie. It turned out that both my wife and I did the Hastie at the same time, so we were really the first [00:21:30] two.

TEICHER: The first Hasties. What exactly did Jim Jones tell you about what a Hastie fellow was?

BERNSTINE: Well, he said it was, at the time it was an attempt to train or get people into the teaching, minorities into the teaching profession. It was a two year program at the time, and the Hasties spent half the time being the academic support counselor for the minority students and the other half of the [00:22:00] time working on the LL.M. It was almost like having a assistant dean for minority students and working on LL.M at the same time.

TEICHER: I didn't realize you did so much counseling.

BERNSTINE: Yeah.

TEICHER: Did it actually turn out that way?

BERNSTINE: Yeah, it turned out to be probably at least half.

TEICHER: Any qualms about after a year in nice, warm, toasty warm Washington DC and coming back?

BERNSTINE: See I'd been to Chicago, so I knew what [00:22:30] I was getting myself into. I figured what the heck. It's only two years. I can stand cold weather for two years. I saw that in government you very easily got to a point where it was difficult to leave, that you either had to get out early or stay for a fairly long haul, and then hope that you could get out. I saw a lot of people [00:23:00] who kind of missed those opportunities, and they're still just kind of -

TEICHER: It wasn't unpleasant. It was just that you didn't feel like you wanted to stay there for -

BERNSTINE: Yeah, that's right. I was learning a lot, but also being in the Labor Department during a Republican administration, especially a Republican administration that was under siege for Watergate, [00:23:30] the Labor Department was not kind of high on their list of priorities. Yeah, I mean, there were some things that were interesting and learned a lot, but on the other hand, there were times when there was just absolutely nothing happening except Watergate. You go to work. You go have some coffee, then you pick up the Washington Post. You go read the Washington Post. Then it was time [00:24:00] for lunch. You go down for lunch, pick up afternoon paper, read the afternoon paper, go down for coffee, and then go home. I mean, there were days like that as well. It was I think understanding that there's always a time, and you have to make decisions. I think probably subconsciously I guess I'm kind of always thinking [00:24:30] of that because I made the decision to leave the deanship because you just have to understand when it's time.

TEICHER: When it's time to make the move. Did you feel yourself starting to start thinking about academic career in teaching? Was that part of it too?

BERNSTINE: Yeah, yeah, that was. The Hastie was kind of an ideal situation.

TEICHER: It served its purpose?

BERNSTINE: Yeah, yeah. It got me into teaching and kind of been [00:25:00] downhill or uphill ever since.

TEICHER: Your first journey along that way was at Howard University, right?

BERNSTINE: Right, right.

TEICHER: How did that come about?

BERNSTINE: Well, again that was the attraction of DC. Well, first of all, it was probably at the time certainly the highest paying offer that I'd got, but it was also in DC. The opportunity to be in a predominantly [00:25:30] minority environment seemed intriguing. My then wife was a Howard grad, undergrad, and so I always heard a lot about Howard. In fact, I had applied to Howard law school and ended up not going. It just seemed like kind of a -

TEICHER: Time for that.

BERNSTINE: Yeah, yeah.

TEICHER: You were there for how long?

BERNSTINE: It's hard to say. Back and forth a lot. I started there in 74 [00:26:00] or 75.

TEICHER: You were there for like three or four years.

BERNSTINE: Yeah, three years, then I came back here.

TEICHER: Yeah. How did you like Howard? As a teacher I'm talking.

BERNSTINE: Oh, enjoyed it. Oh yeah, I enjoyed it. Some of those students are still good friends. Some good friends on the faculty. I went there at a time when the law school had moved to a new facility. As it turned out, the new facility had [00:26:30] more classrooms, but they were all smaller than the old law school. Rather than build larger classrooms they just hired more faculty. I kind of came in with a group of kind of young mavericks. There were some tough times, kind of the factions and back and forth.

TEICHER: It was sort of like an old [00:27:00] Turk, young Turk thing. Were you a member of the young Turks? What were the issues that you were -

BERNSTINE: We were basically nine Howard grads, I mean, it was really kind of turning the school over in terms of people who had not necessarily gone to Howard or other predominantly black schools either as undergrads or [00:27:30] as law students. There were battles, a lot of

tenure battles, trying to impose new standards at the institution. It was fun. It was interesting, but at times it was also very frustrating.

TEICHER: Yeah, those are [00:28:00] the kind of things that wear on one after a while.

BERNSTINE: Yeah, right, right. Actually, I came back here in 78 because just kind of got tired of the battles.

TEICHER: When you were teaching at Howard, what courses?

BERNSTINE: I've always taught the same stuff, civil pro, federal jurisdiction, occasionally labor law, torts once or twice.

TEICHER: You enjoy teaching?

BERNSTINE: Yeah, yeah. I do.

TEICHER: What about research?

BERNSTINE: [00:28:30] My research areas have been primarily the same thing, in the civil pro, federal jurisdiction areas. Pretty much stuck to that. Haven't really done much at all lately.

TEICHER: Lately. The higher you get, the tougher it gets is what I've been able to gather from the people I've interviewed.

BERNSTINE: Yeah, yeah. I was on a kind of ping pong back and forth between here and Washington. I'd come here [00:29:00] for a year then something threw me back to DC. Mostly family, and then eventually got divorced. Just being near my kids was drawing me back to DC as much as anything. I'd go back to Howard, and they'd piss me off. I mean, I was actually denied tenure at Howard.

TEICHER: You were?

BERNSTINE: Yeah.

TEICHER: I didn't know that.

BERNSTINE: It was kind of odd. I got denied tenure because [00:29:30] I didn't wear a tie.

TEICHER: You're very casual.

BERNSTINE: Yeah. One of my colleagues came in one day and said that it would really help matters if I would wear a coat and tie to class. I would. I mean, I would occasionally. I certainly would at least a couple times [00:30:00] a year even if for no reason other than to show students that yeah I can do it, but ... I wasn't trying to make a point. I'm really basically a casual person. My view is that it's more than looking like a lawyer. I think for a lot of students, certainly during

that era, they felt like if they dressed up then they were performing. There was no relationship between performance and how [00:30:30] you dress.

TAPE IS STOPPED FOR ONE MINUTE [00:31:00]

TEICHER: [00:31:30] You said that you weren't trying to make a point. Were they maybe trying to make a point?

BERNSTINE: Yeah, yeah. Got denied tenure, came here, the next year got tenure in that year, and then Howard gave me tenure. Actually when I became dean, I became acting dean at Howard, [00:32:00] for my first faculty meeting, at that point I had to dress up because, not because I was dean but I was also general counsel to the university. I was doing two jobs, but I always had to wear a suit because I was in the administration building. For my first faculty meeting as acting dean, I actually changed clothes and put on my jeans.

TEICHER: Was that noticed?

BERNSTINE: Yes, yes. A number of the people [00:32:30] that had voted against me for tenure were still on the faculty.

TEICHER: Oh, so this was your way of -

BERNSTINE: Just letting them know that the good guys are in charge.

TEICHER: That's great. When you came to Madison, you had been here as the Hastie fellow, so you somewhat knew the workings of the law school. Well, how did the hire come about first of all? Did they just contact you, or did you -

BERNSTINE: Yeah, actually they contacted me. I think [00:33:00] there was some support for me to stay after the Hastie, but I also think that there was a concern that they didn't want the Hastie to turn into -

TEICHER: Set a precedent.

BERNSTINE: Right. I think I pretty much had to go away. Actually fairly soon after I left I got a call to see whether I was interested in coming back, [00:33:30] probably was at the end of my first year at Howard that they called me about coming back. During that second year I actually came out, interviewed, got an offer and said no.

TEICHER: Why'd you say no?

BERNSTINE: Because I wasn't unhappy at Howard, certainly not unhappy enough to think about leaving. I'd kind of just gotten settled, [00:34:00] and it was like well, I really hadn't done that much in a year and a half. Why move? Then the dean [inaudible 00:34:14] called me and said that they would hold the offer open for a year. In other words they would not accept my

declination. Held it open for a year. As it turned out, at that point, it was then [00:34:30] a good time to make the move to come back.

TEICHER: Perfect.

BERNSTINE: Yeah.

TEICHER: Who were the people here on campus that were supportive of you at that time? Do you know of any particular individuals?

BERNSTINE: Well, Jim Jones, Frank Remington, Jim McDonald was a big supporter, John Conway, who was my LL.M advisor when I was here. I still try to get out to see John in California.

TEICHER: Where's he?

BERNSTINE: Well, he's [00:35:00] retired now. He's in leisure world in Laguna Beach. Basically, I kind of see myself in some ways as kind of having grown up here. I've always felt like I've had just kind of general support from everybody. I've been here kind of almost in every capacity as a student, as a staff member, as a faculty member, [00:35:30] and now as kind of the ultimate demotion as the dean. I mean, most of these people I've just kind of known since my early 20's because I never really lost touch. Even when I was at Howard, I would often come back and teach in the summer. I was just kind of always around. I still claim that I have my office up on the 6th floor.

TEICHER: Is that where you had your original?

BERNSTINE: Yeah, yeah.

TEICHER: You came [00:36:00] here, and you basically did what you'd done at Howard, right?

BERNSTINE: Yeah, yeah.

TEICHER: Teaching and research. Did you become involved in the affairs of the law school at all?

BERNSTINE: No, not really, because certainly as an untenured faculty member, there's usually an attempt to kind of keep you out of any heavy committee assignments. There weren't any real political issues going on at the law school. It was pretty calm compared to [00:36:30] what I'd been used to at Howard. It wasn't like I had to come here and get in a camp. Really weren't any camps to get in. You just kind of did your work.

TEICHER: It was more or less a real solid foundation type?

BERNSTINE: Yeah, yeah.

TEICHER: When you went back to Howard, you went back as a two-time -

BERNSTINE: Deputy general counsel.

TEICHER: Assistant vice-president of [inaudible 00:36:58] affairs.

BERNSTINE: Vice-president and the deputy general counsel, right.

TEICHER: Those [00:37:00] were simultaneous.

BERNSTINE: Right, right. Because the person that I worked for was vice-president and general counsel, but it was the same functional job. Actually it was a colleague from the law school at Howard who got appointed general counsel and asked me to come back and be his deputy. Sounded like a pretty good idea.

TEICHER: What was your job function there?

BERNSTINE: Well, we [00:37:30] were the in-house counsel to the university. The university, about 12,000 students, has a teaching hospital, radio station, TV station, hotel. In terms of complexity, it's probably much more like Stanford than it is like a typical 12,000 or 15,000 student university. Unlike the [00:38:00] system here, or at another state school, there is no attorney general's office that kind of takes over litigation. We just handled everything from beginning to end. Just basically a general corporate practice. It was a lot of fun. It was certainly a lot different from teaching, but I did actually teach half-time for most of those [00:38:30] years as deputy general counsel. I'd teach civil pro in the morning and then come on over to the office. Again, it was like the law school at Howard is similar to Northwestern in the sense that it's not on the main campus. It's across town. Stop at the law school, teach, and then head over to the main campus where my general counsel's office was. They had at the peak 11 lawyers, [00:39:00] used a lot of outside legal counsel. It was just a fun job.

TEICHER: You said you were acting dean for a while?

BERNSTINE: At Howard?

TEICHER: Yeah.

BERNSTINE: Yeah, that was back in 88. I was appointed acting dean. I started out as deputy general counsel. Then 87 I became general counsel. Then [00:39:30] in 88 I took the job as acting dean, and I kept the job as general counsel. I was doing two jobs for a couple of years, which was fun but pretty hectic because I literally had two offices then. I mean, I had the general counsel's office on one side of town, a law school office on the other side of town and a car phone and basically [00:40:00] kind of shuttled between the two.

TEICHER: At this point were you starting to think, were you thinking about administration as a career?

BERNSTINE: Yeah, but I certainly hadn't thought of law school deaning as a career. I was pretty happy practicing law. Probably thought about maybe continuing that and also teaching half-time. It was kind of [00:40:30] an ideal situation, teaching and then also actually doing real stuff. What happened? In 88 I was appointed acting dean because for a number of reasons the law school had gone through two deans in two years. There was a lot of animosity [00:41:00] between the law school and administration. I don't think the administration was quite ready to go through a dean search, a permanent dean search, and so they asked me to kind of take over for a year while they thought about it.

TEICHER: Very briefly, what was the crux of the matter between the administration and the law school?

BERNSTINE: Well, that's kind of hard to say. I think it's the traditional the administration's neglecting the [00:41:30] law school. Salaries were low. Bar passage was low. I mean, the law school was in a lot of trouble from the accreditation authorities. There had been a running battle probably for 20 years.

TEICHER: In step you into this [inaudible 00:41:58].

BERNSTINE: Yeah, yeah. [00:42:00] I mean, it was fine. Again, people that, I mean I'd kind of grown up both at Howard and here, so I mean it wasn't like I was stepping into an unknown situation. I had the backing of the administration. I had the president's ear in a way that no dean ever had before because [00:42:30] I was his lawyer and had been his lawyer.

TEICHER: Of course. I forgot all about that.

BERNSTINE: When I went to see him, he never knew whether I was coming in as his lawyer or as the dean of the law school. In some ways I had the president's ear in a kind of unique.

TEICHER: The law school trusted you as well, the faculty of the law school.

BERNSTINE: Yeah, yeah. I knew I was going into a situation that [00:43:00] I understood. I had my own preconceived notions of what needed to happen to kind of get the law school back on its feet. Actually it involved getting rid of about six of the senior faculty who had been kind of the old guard when I was a young Turk. Actually convinced the administration to give me [00:43:30] like a war chest, and I was able to get rid of four of the six people. They were all tenured but able to kind of buy out their, yeah.

TEICHER: Did that go a long way toward -

BERNSTINE: Yeah, turned that place around. When I left, we'd gotten one of the few if not the only kind of clean bills of health from the accrediting agencies, by the time I left.

TEICHER: That's impressive.

BERNSTINE: Then I knew that it was also a good time to [00:44:00] go. I think even the people who were not my supporters when I was a faculty member were kind of distrustful of my coming in, kind of parachuting in as the acting dean. As it turned out ended up being there for two years, and everybody wanted me to just take over the deanship. I'd kind of done my thing. There was a change in administration in terms of [00:44:30] there was a new president coming in. I'd pretty much decided I wasn't going to stay in the general counsel's office, so the question was whether I wanted to just assume the deanship at Howard. This opportunity came up. I said, time to move on.

TEICHER: Before we get to Madison, several people I talked to in the past couple weeks said that one of your real skills as the administrator is the fact that you were able to defuse conflict [00:45:00] situations oftentimes before they even arise. That's something that doesn't always show up on the record because how does something that doesn't happen show up on the record. Do you understand what they're saying? Has that been something that you've always been good at? Did Howard help in that way?

BERNSTINE: Yeah, but it's not something that I think that I work at consciously. I hate long meetings. [00:45:30] I hate meetings period, but certainly long meetings. I also know that one of the things I learned at Howard and certainly as dean, and I probably got taught the lesson because I was on the wrong side or the losing side of a lot of issues because I went into meetings, and the votes were already there. The old guys had -

TEICHER: The ducks in the row.

BERNSTINE: Yeah, and so [00:46:00] as dean on critical issues I'd just make sure the votes were there. I mean, I'd call people in, call them up, find out where they were, if they weren't on my team, I'd try to convince them that they should be on my team. Once we had the votes, there's no reason to discuss it. We just go and vote. We ended up probably [00:46:30] getting a lot of things done and a lot of things passed because even when you try to get people, what I first discovered was even when you get people kind of lined up, it's like once they get into the meeting, they start listening to other voices, people in the opposition. Even though eventually they're going to vote the way you want them to vote, they still feel like they got to discuss them. I always say well, [00:47:00] we don't have to discuss it. Here, this place has been easy because there really haven't been that many issues where it's been conflict or the potential for conflict, but where there has been, I've tried to work with the academic planning council. The door's kind of always open. To the sense that people have issues, I think they come to me before, and we kind of work it through, so that faculty [00:47:30] meetings just aren't cantankerous.

TEICHER: Not a place where you have battles.

BERNSTINE: Yeah, on hires and stuff, we always try to have a committee that really worked the halls, got a real sense of where people were kind of before the meeting, so you're not just going in the committee saying okay we recommend X, Y, and Z. Then all of a sudden you're ready to have a big discussion of X, Y, and Z. You've got to have that discussion someplace else. Otherwise, you're just set for [00:48:00] a very long and normally unproductive meeting.

TEICHER: The diffusing oftentimes comes through consensus.

BERNSTINE: Yeah, yeah, and it's not necessarily saying okay I got to diffuse a situation. It's just applying some common sense to figuring out where it's best to resolve issues, and it's usually not in a meeting. It's usually before. I've been fortunate to have good associate [00:48:30] deans, both here and at Howard. They do a lot to stay on top of things. I get a lot of credit for things that other people do. They really deserve the credit, not me. I'm just lucky, being in the right place.

TEICHER: Well, I also heard people say that the other thing is you never lose your sense of humor or your sense of proportion in situations.

BERNSTINE: It's only a job. I mean, nobody [00:49:00] dies because of any decision we make. It's not like being a doctor where you -

TEICHER: The wrong cut.

BERNSTINE: The wrong cut, and somebody's dead. I've been the general counsel to the hospital and seen a lot of situations where people just, they die because somebody made a mistake. I don't think there's any mistake we can make where that's going to happen. It really is just a job. I mean, I work hard, but [00:49:30] I also just try to keep it in perspective.

TEICHER: You don't lose sleep over, tossing and turning.

BERNSTINE: No, no.

TEICHER: Not all deans can say that.

BERNSTINE: No, no.

TEICHER: I've interviewed several in my career.

BERNSTINE: I can't think of anything that I've lost a lot of sleep over. I mean, certainly there are things I think about sometimes away from the office, but again.

TEICHER: That's [00:50:00] great. That's wonderful. Now you had this back and forth with Madison and Howard, and obviously when you were at Howard, dean, deputy counsel, and also being the acting dean, you were still contacting Jim Jones? How are you doing?

BERNSTINE: I mean, I still had tenure here.

TEICHER: They understood that you were acting dean at that point?

BERNSTINE: Oh yeah, we [00:50:30] have a lead balance where it's more convenient sometimes for people not to be on budget. It was always no problem for me not to be on budget. Once I got tenure in 78, I never gave it up. In fact, one of the biggest traumas I'm going through right now is that I'm actually giving it up.

TEICHER: Oh no. Do you have to?

BERNSTINE: Yeah, I think politically I have to.

TEICHER: Well, that's too bad.

BERNSTINE: [00:51:00] Yeah, I mean, I think politically it would not play well with the Portland State faculty if I kept my tenure here. They'd say see he's not really serious.

TEICHER: It's not anything that's happening here.

BERNSTINE: No, I just figure that I've got to make a commitment to the institution. I'll end up with tenure there, not in the law school but probably in the school of business and the school of urban planning and joint appointment. It will be the first time in almost [00:51:30] 20 years.

TEICHER: I can understand that.

BERNSTINE: It's scary.

TEICHER: Yeah, yeah, this is a nice solid -

BERNSTINE: They probably would have had me back. That's the problem.

TEICHER: Okay, so they knew that you were acting dean. Cliff Thompson followed Oren in here as dean, Oren who had originally come on I believe as a caretaker dean, and ended up staying seven or [00:52:00] eight years, something like that. I've interviewed both Oren and Cliff. Then Cliff came, and he was dean for what?

BERNSTINE: Seven, I guess, six or seven years.

TEICHER: Pretty long.

BERNSTINE: Yeah.

TEICHER: Did Jones or any of the people who called you up, did they ever talk about the fact that would you be interested? Did you ever get any feelers from Wisconsin on this?

BERNSTINE: About being dean?

TEICHER: About being dean?

BERNSTINE: Not until Cliff had announced, yeah. I mean, my first contact was actually from a search committee, so that was, [00:52:30] Cliff had already announced that he was out of here. It sounded like a pretty good idea.

TEICHER: How were you approached? They just called you up.

BERNSTINE: I got a call from, I can't remember, maybe it was Linda Greene. She was on the committee. She called and asked whether I would be interested. Jim MacDonald called and [00:53:00] Bill Whitford. Yeah, a lot of people called. They had heard, I guess I'd done a relatively okay job at Howard. There are times when a school needs an insider, and there are times when a school needs an outsider. I think back when I was appointed, I was both in the sense that I was an insider because I was a member of the faculty, and everybody knew me. But, [00:53:30] I'd been gone away long enough that the people that didn't like me had forgotten why. I was kind of an outsider at the same time. That's how I kind of ended up here.

TEICHER: Donna Shalala was chancellor at the time.

BERNSTINE: Yeah.

TEICHER: Was she involved in any of this in any way, do you know?

BERNSTINE: Well, she certainly encouraged me to apply.

TEICHER: Did you know her before this?

BERNSTINE: Yeah, actually [00:54:00] I was offered Melanie [inaudible 00:54:02] job.

TEICHER: Oh, as a lawyer.

BERNSTINE: To start that office, but decided, Donna said I was the only person ever turned her down.

TEICHER: I wouldn't be surprised if that's true.

BERNSTINE: I ended up deciding no and stayed on at Howard. Then the deanship opened.

TEICHER: Why did you say no?

BERNSTINE: Because actually it [00:54:30] was a job that was less exciting than the job I was doing. Because as I said before, basically with Melanie's office, when things get ready for litigation, then the attorney general kind of steps in and says, okay it's all ours. I had everything from beginning to end, and I was also general counsel to the hospital. I mean, I saw all those cases from beginning to end. In some ways it was [00:55:00] a bigger school, but it was a smaller job in terms of scope. In the end I said, "Well, do I just want to go to a bigger school?" The answer was not really. I'm doing a bigger job.

A lot of people think, when they think about the legal counsel's office, they always say, well how many students do you have? How big is the school? That's almost irrelevant because students aren't your legal problems. [00:55:30] The number of students don't necessarily impact, only indirectly in the sense that you may have more faculty and staff. You may have more of those

kinds of issues. You may have more student issues just because you have a larger student body, but in terms of the percentage of legal work that students actually generate, it's really pretty small. It's really the complexity of the institution that's more important, not the size of the institution. [00:56:00] In terms of complexity, Howard's probably more complex than Madison in a lot of ways.

TEICHER: That interesting. Just give me one case.

BERNSTINE: Like I said, for example, we had our own hotel. We had a radio station, TV station. I mean, the radio station's evening program was the number one program in the city. Had our own public TV.

TEICHER: [00:56:30] Does that still exist, the station?

BERNSTINE: Oh yeah.

TEICHER: Next time I go to Washington, I'll have to tune that in.

BERNSTINE: 96.3.

TEICHER: Okay, now we're back in Madison. First of all, you did manage to say no to the chancellor, which probably wasn't easy. You accepted the job here. What did they tell you about the job here?

BERNSTINE: Nothing. Probably fortunately nothing.

TEICHER: You were [00:57:00] sort of an innocent babe.

BERNSTINE: Yeah, just kind of.

TEICHER: Just kind of strolling along. That's a lot.

BERNSTINE: Yeah, yeah. I just knew kind of from being around that certainly the building was going to be a big part of it. I knew that fundraising had to become a big part of it. Part of the reason I think that Cliff left was that Cliff saw that the building was going to be coming down the pipeline, and that fundraising was going to be a big part of it. I think he made a decision [00:57:30] that he just wasn't ready to sign on for another five years of out on the road. Yeah, I also knew that if I wanted to continue in higher education in administration that the one thing missing from my portfolio was fundraising. This turned out to be kind of a good fit because [00:58:00] what I think the deanship needed at the time.

TEICHER: It was sort of taking a chance on both sides then since fundraising would be the major [crosstalk 00:58:13], and you hadn't done it. You would have thought they might have looked for someone with a track record for that.

BERNSTINE: Right.

TEICHER: Interesting.

BERNSTINE: They took a shot that I could do it. I took a shot thinking I could do it.

TEICHER: Here you are.

BERNSTINE: Yeah.

TEICHER: We're sitting in the new addition.

BERNSTINE: It worked out okay.

TEICHER: [00:58:30] What was the state of the addition at the time when you were hired in August of 90?

BERNSTINE: Didn't exist.

TEICHER: The plan?

BERNSTINE: There was nothing. We had a concept, but we were way down on the kind of the list both on campus and in the state. But, Donna had buzz, I [00:59:00] think did a lot to kind of get us moved in the jumping the queue within the system. Did a lot of working the halls to kind of get it through the building commission. I think in some ways one of the biggest, how do I say it, [00:59:30] in some ways the Grainger gift was very unfortunate.

TEICHER: For the business school.

BERNSTINE: Right, because it set a precedent that I'm not so sure is a good one. But, it's certainly going to be the way that now private money has to match public money. We kind of came in right at the [01:00:00] heels of the new business school. I think everybody, the governor particularly said, well the state's not going to pay the entire freight, and so how much money could you put up? The project started at 13 million. I pissed and moaned and said we could only do one, [01:00:30] figuring that we could do three. It turned out that we cut a deal, so that it was ten and three, and I was kicking and screaming all along. I was pretty confident we could do three. Then, turned out we decided we wanted to upgrade some of the quality of the project. Since we're putting [01:01:00] people's names on it, it couldn't be the typical state construction, so we ended up going to six. It turned out to be a 16 and a half million dollar project rather than a 13.1. We had to raise the six and a half.

TEICHER: You did not have the benefit that the Kohl Center or the Grainger Center has with that big central donor.

BERNSTINE: Right, right.

TEICHER: You kind of had to, matter of fact, most projects start once they get that.

BERNSTINE: Right. [01:01:30] We've actually been on a couple panels discussing how to do everything wrong and still run a successful campaign. A lot of what happened in the fundraising was well, this is the situation we're facing. How do we do it? We had to announce basically the campaign before we had any gifts because [01:02:00] we had to raise what, million and a half, before we could even get through the building commission.

TEICHER: You had to raise three?

BERNSTINE: Before we could break ground. There's always circumstances dictated the campaign more than anything else. We never got the big donor.

TEICHER: [01:02:30] Did you go for a big donor?

BERNSTINE: Yeah, I was looking for the big donor. It just wasn't there. Turned out that our kind of lead gift came from Foley. They did a half million dollars.

TEICHER: That's a law firm here in Madison?

BERNSTINE: Right, actually it's a Milwaukee firm with a Madison office. It's the biggest firm in the state.

TEICHER: They gave a half million.

BERNSTINE: Right. None of the gifts that we got from the firms came from the firm. I mean, these were partners [01:03:00] in Foley, pooling their money.

TEICHER: Oh I see, I see.

BERNSTINE: When I say the Foley gift or the Michael Best gift, they're all gifts of individuals in the firm giving on behalf of the firm. They ran a kind of internal campaign, and they wanted the new courtroom. They raised a half million dollars, which was probably half of what they should have [01:03:30] done.

TEICHER: They sort of low balled.

BERNSTINE: They set the floor, I mean, they set the ceiling.

TEICHER: It was Tom [inaudible 01:03:37], when I talked to him, said that they sort of set the curve at that.

BERNSTINE: They did. Every other firm says okay, where do we see ourselves relative to Foley. We're not as big as Foley, not as old as Foley. Therefore, we're the number two firm. Foley's done a half million. We should do about 350. If Foley had done a million, then every other gift would have been double. [01:04:00] They were coming up on their, what, 125th or

150th anniversary or something, and they wanted to do a big thing and make this gift to the law school. They raised a half million dollars, and it certainly was a half million more than we had.

TEICHER: Than you had the day before, but not what you want, not what you were hoping for.

BERNSTINE: Yeah, I think a number of the gifts that we [01:04:30] accepted, we took them because at the time we needed the money. I think a good example is, I don't know if you've been up in the faculty commons.

TEICHER: No.

BERNSTINE: It's probably maybe the nicest room in the whole building. Sheldon Lubar, one of the regents has that room. [01:05:00] Got it relatively speaking, for his dollar probably got the best bang for his buck.

TEICHER: You were selling it by space and stuff?

BERNSTINE: Yeah, he came with a very generous gift, but he probably got the nicest room. It's caused some problems in the sense that, for example, we had a guy come home from Milwaukee who's been very generous and probably given [01:05:30] as much as Lubar, but he can't get space this nice. He says well but how did he get that, and then you're sticking me with.

TEICHER: I've got the janitor's closet [crosstalk 01:05:41].

BERNSTINE: I mean, it was like it was timing. People like Lubar and Foley stepped up early, and they were making significant statements. It's not that at all saying that [01:06:00] they weren't making them. They were stretching in ways that the firms and individuals had never stretched before on behalf of the law school. They ended up getting quality space.

TEICHER: I'll have to take a walk around later on and see because I notice everywhere I walk I see -

BERNSTINE: It's really up on the 7th floor. Very nice room. Overlooks, you can see the lake behind the school of education. [01:06:30] It's just a really nice room.

TEICHER: That's nice. Now you were the chief fundraiser. First of all, I ought to point out before we get to what your actual day by day was on this. For people not aware of the situation, moving up on the list is not an easy thing, on the building list. Again, it's sort of astonishing that you came here, and they were fairly low on the list when you arrived. To be able to push it up says a lot about Donna Shalala and about Ken Shaw too.

BERNSTINE: That's exactly [01:07:00] right. They really deserve the credit for it.

TEICHER: The more I'm hearing from you and the other people, it's sort of astonishing that the whole thing got done as quickly as it did [crosstalk 01:07:10] style.

BERNSTINE: They say even a blind squirrel finds an acorn now and then. In some ways we're like the blind squirrel. I think if we were trying to start this project even two years later than it started, probably wouldn't have happened.

TEICHER: Why not?

BERNSTINE: Because I [01:07:30] think other buildings kind of ... The Red Gym was always out there, and they finally got a gift that would have probably put them ahead of us. Pharmacy, some of the other projects, probably would have gotten going. We kind of stumbled through the whole thing in a lot of ways.

TEICHER: The one thing we didn't talk about and which I should have started this discussion on on the addition on, and that's [01:08:00] the need for the addition. You were here long enough as more or less a student, as a Hastie fellow, and then as a professor. Why was the addition so needed?

BERNSTINE: Because the accrediting agencies thought we needed a new building. We were overcrowded.

TEICHER: I've heard things that the library was not, was always underdeveloped, or something or other.

BERNSTINE: Yeah, I've become much more jaundiced of my view [01:08:30] of the ABA, particularly. Unless you have the biggest library, your library's not big enough. Our library was certainly inadequate, and certainly in terms of technology and all those other things. I mean, the building was clearly inadequate. At the time, we had 950 students in a building designed for about 650. Yeah. It's just pretty tacky. It's a pretty tacky building [01:09:00] because it was one of those that had been put together in a piecemeal fashion and kind of typical state structure where even the addition, wraparound addition in 1978, was a wraparound for the library except that it wasn't load-bearing, so you couldn't put books. Wasn't air conditioned. I mean, all kinds of, and then we had these places where you couldn't get to from here [01:09:30] in the old building. You'd find yourself down someplace in the library, and you couldn't actually, unless you just had dropped something so you'd know where you'd been, you'd have a hell of a time trying to get out. There were these stairs leading to nowhere.

Yeah, we needed a building. This is certainly much nicer, and I suspect a lot of people have even forgotten what we had before. [01:10:00] A lot of it was external pressure from the accrediting agencies, said our library wasn't adequate. I'm not so sure. I'm sure it was. A lot of that's driven by what I call the librarian's lobby in the ABA. Again if you don't have the newest and largest, [01:10:30] it's inadequate. These stupid rules that you've got to have enough seats for two-thirds of your student body. Keep going in the library and tallying them. The technology. People don't sit in a library anymore. You can be at home and access just about everything you need now. They still have these kind of inane rules that drive accreditation.

That was [01:11:00] a card that I played but played very carefully because George [inaudible 01:11:12], I think, played that card back in the early 70's in a public way. He said something to the effect that if we don't do X, we could lose our accreditation. I mean, [01:11:30] there's still people that sometimes call and say, "Are you accredited yet? Or, did you ever lose your credit?" I mean, that's something that's hard to live down. Even though it's a statement I could have made, I don't think one as a practical matter it would have happened, but that's not a card you can play publicly.

TEICHER: Or very often.

BERNSTINE: Or very often. I mean, I can say it to Tommy, [01:12:00] but again you have to know exactly what you want to say. You got to be vague, kind of the thing we're talking about about how you can be vague, but you have to know exactly what it is you don't want to say. I didn't want to ever say we're going to lose our accreditation, but I did want to at least leave that impression that we could lose our [01:12:30] accreditation. It was a card I tried to play privately but not publicly.

TEICHER: Do you play poker?

BERNSTINE: Yeah, but not very well.

TEICHER: How did you go about your fundraising? How did you go about raising all this money?

BERNSTINE: Hit the streets.

TEICHER: What do you do? You just go to these dinners and talk -

BERNSTINE: Yeah, probably [01:13:00] early on we probably were doing 30 or 40 events a year around the country. You don't raise money at events. You raise money by going to people, sitting in their offices. I had a tough task master, Chris Richards, who's over at the foundation. Takes his job seriously. Likes to put in a full day's work. Makes sure I put in a full [01:13:30] day's work. He kept me off the golf course more often than I liked, but on the other hand we got to play quite a bit too. Again, I got a lot of credit for raising the money, but I had people like Chris and Ed.

TEICHER: Ed?

BERNSTINE: Ed Reisner, who's the dean for alumni affairs who used to be dean of placement. Been here [01:14:00] almost 20 years now, probably knows two thirds of our graduates because he's been in the placement office. You got people like that who got a wind you up.

TEICHER: Did you learn a lot about fundraising from these people?

BERNSTINE: Yeah, yeah. I mean, I think we learned a lot from each other because we were all really relatively new at it. Chris had the most experience because he had been in public radio.

[01:14:30] We basically kind of did it. Chris is very good at details. I mean, like follow-up letters to people. He'd draft them, I mean, a lot of letters people got at me that just signed them. Chris made sure that we always sent thank you's, both [01:15:00] when we got money sometimes and usually when we didn't get money. Just kind of making sure that we stayed in touch, that we identified people, some people we knew about, others we stumbled across. It was really more just kind of being out there as much as anything else. Just knowing you had to hit the road two or three days a week, which is what we did.

TEICHER: You were hitting the national alumni as well as the state alumni.

BERNSTINE: [01:15:30] Yeah, probably more national than state.

TEICHER: How much, if you can recall off the top of your head, what percentage of money that you raised came from out of state?

BERNSTINE: Probably the majority.

TEICHER: Oh really.

BERNSTINE: Yeah. It's hard to say, but I would say certainly the majority of it came from out of state.

TEICHER: Sounds a little bit like your Howard experience as acting dean in that a lot of your work was done on those one on one situations, that consensus [crosstalk 01:15:58]. Then the faculty [01:16:00] meetings are kind of like the dinners that you [crosstalk 01:16:01].

BERNSTINE: That's exactly right. You have to sit down with people. Most of the people that come to receptions are looking for something rather than, they're not looking to give you money. You got a lot of people who are looking to change jobs and see if it's a good place to come and connect. Just Badger fans. They're not necessarily your big donors. Your big donors you got to go and [01:16:30] sit in their offices and hand them the brochure, talk about the need for the project, provide them with naming opportunities to the extent of their level.

TEICHER: What do they do then? Do they write out the check right there?

BERNSTINE: Actually, we got pledges from people. Basically we were trying to get people to do five year pledges. The theory behind that is one, we want them to give more than they could [01:17:00] think about giving in terms of one shot. Two, once they get hooked, we got all these people now that are in the process of paying pledges. We've actually asked some people to renew pledges. The theory is people see after five years, well, I've been writing this check, it really hasn't been that painful. Just kind of keep writing the check. We're hoping that one of the major byproducts of the success on the building campaign will be [01:17:30] that now we'll start to get money coming in for just general use and special programming needs. The next dean, that's going to be the next dean's challenges. I hope the faculty doesn't think they'll see the next dean a whole lot more than they saw me because I think it'd be a mistake.

TEICHER: Well, isn't that the way deanship and presidencies are becoming more and more?

BERNSTINE: [01:18:00] Faculty still aren't necessarily convinced of that. As a faculty, they never need to ... The number of times when a faculty member needs to see a dean is so rare. Generally they don't need to see me for very long. More often than not, they could talk to me on the phone. While I was away a lot, I was never out of touch. I'd call people from almost anywhere in the world if they -

TEICHER: If they really needed.

BERNSTINE: Yeah, sometimes I've actually [01:18:30] called people, one time I called faculty member. He left me a message that he needed to talk to me, and I was in Hong Kong. I called him up, and I found out he wanted my tickets to the Minnesota basketball game.

TEICHER: Well, it was a good game.

BERNSTINE: Yeah, yeah, so sometimes you blow it. He can't say I wasn't in touch with him.

TEICHER: I think it was Tom [inaudible 01:18:57] who told me that he found [01:19:00] out or learned that it's just as easy to ask someone to write a check for a thousand dollars as it is for a hundred dollars.

BERNSTINE: Well, that's right. I always say, and people say, how could you ask people for money? Well, what's the worst that can happen? They say no. They say no I don't want to give to the institution that I owe all of my, basically all of my success too. I mean, if somebody's willing to say that to you, well.

TEICHER: You had no trouble [01:19:30] just point blank.

BERNSTINE: If you can say it to me, if an individual can say that they are worse off having come here, then they should give a dime. But, if he can't say that, seems to me that you kind of owe something back. Most of the people came here paid basically nothing for tuition or next to nothing, both in state or out of state. They're very successful now. I'm just [01:20:00] the guy who represents their institution, and I'm saying we're providing you an opportunity to make your degree even more worthwhile because the more support we get for the institution, the building and programs, the better Wisconsin will be thought of nationally and internationally. It's just an investment in your own degree.

TEICHER: Were you generally pretty successful?

BERNSTINE: Yeah, [01:20:30] certainly I got a lot of people who said no, and a lot of people who were disappointing in the sense that they were capable of giving a lot more than they gave.

TEICHER: Did the opposite happen? Did you get some people who you thought were [inaudible 01:20:47] ended up being very generous?

BERNSTINE: We got some people who stretched. There are people that you just wished they had more money because you knew that if they did, it was yours. Lawyers [01:21:00] are pretty tight. They're really pretty cheap. Even though a lot of them are very successful, they all think that tomorrow I may not have any more clients. Then what am I going to do? They've been practicing law for 25 years. I mean, they've got people banging down the door, but they always think but tomorrow, it could all be gone. It's that mentality. Also the mentality of it's a public school, and so why should I give money. A lot of [01:21:30] it was educating people about the need.

TEICHER: About the fact that you needed to raise such and such.

BERNSTINE: Yeah, for a lot of people, our contact was the first time that anybody ever.

TEICHER: Really?

BERNSTINE: Yeah, oh yeah. Not many people who can say that now.

TEICHER: No, no. I'm getting calls every night.

BERNSTINE: There are not many people who can say this is the first time my law school's ever gotten in touch with me.

TEICHER: You mentioned Tommy Thompson earlier. Let's talk about [01:22:00] his involvement in all this. He was behind the project or wasn't he?

BERNSTINE: Yeah, he supported the project.

TEICHER: He and Klauser.

BERNSTINE: Klauser.

TEICHER: Was Klauser working on this?

BERNSTINE: Then, we kind of had things lined up in a way that it was unique. We had the governor, secretary of administration, and the president of board of regents all graduates of the law school.

TEICHER: Oh, well that's very nice.

BERNSTINE: Yes.

TEICHER: Who was president of the board?

BERNSTINE: [01:22:30] George Steil. The stars were kind of lined up in our favor.

TEICHER: Did you work much or talk, had many meetings or phone conversations with Thompson and/or Klauser?

BERNSTINE: Yeah, met with Tommy several times and Klauser a number of times. George Stile as well.

TEICHER: You were talking about?

BERNSTINE: Just kind of making sure we stayed on track. Stayed in contact with our legislators who [01:23:00] were graduates of the law school. Made sure they were staying on board.

TEICHER: Was there ever any point in the entire fundraising effort where you thought we're not going to be able to do it?

BERNSTINE: In some ways never, but in other ways always.

TEICHER: Sort of like that lawyer saying if I give too much money I might be out of business.

BERNSTINE: Yeah, yeah. At different [01:23:30] stages, we didn't have any choice. Once we broke ground, then we had to raise the money.

TEICHER: How far were you along when you broke ground?

BERNSTINE: Well, we gave the impression we had the three million dollars. I said gave the impression because we really didn't. We had some alumni money that we leveraged. We actually had gotten the [01:24:00] First Wisconsin Bank to guarantee pledges. We were kind of operating on a shoe string.

TEICHER: What about some of the foundations here like Light foundation and/or WARF, or any of the other, Hilldale. Did you get any money from them?

BERNSTINE: No.

TEICHER: This was all the stuff you raised coupled with what you got from the state.

BERNSTINE: Right.

TEICHER: Oh my. How do you go about raising money when [01:24:30] you say you have enough? You said, when you broke ground you -

BERNSTINE: We had enough to break ground.

TEICHER: Oh to break ground. I see.

BERNSTINE: Right, we had enough to break ground, but that meant we still had to raise the other three to -

TEICHER: Finish.

BERNSTINE: But, I figured once we had the hole in the ground, they weren't going to stop.

TEICHER: I can't remember who it was I was talking to said that that last million is often very tough to raise [01:25:00] because you've gotten your big donations at that point, and you have to nickel and dime it.

BERNSTINE: We did a lot of scrambling, but we had some dollars that came in that we hadn't thought, just didn't necessarily think would come through. We got over the top, and it's hard. I mean, Chris probably can chronicle it much more for you than I could because [01:25:30] I think he was a lot more pessimistic than I was. I wasn't optimistic. I just figured hey, it's got to work out, and it did. We got over the top, but I don't really recall kind of the gift that put us over the top.

TEICHER: He does.

BERNSTINE: It's probably the Michael Best gift.

TEICHER: Now Michael Best, tell me about, you mentioned that earlier. Is that a law firm?

BERNSTINE: Law firm, and they were really the last [01:26:00] big firm to come in. They came in really at the very end.

TEICHER: How much did they?

BERNSTINE: Two and a half million, two and a half thousand, 250,000.

TEICHER: 250,000.

BERNSTINE: Yeah. We finished it, and I don't know that I necessarily, I was glad that we had gotten over the top, but on the other hand I was also at the point that I knew they weren't going to stop construction.

TEICHER: [01:26:30] We're not going to put any windows.

BERNSTINE: If it took us another year to raise the money, what's the state going to do other than pay the bill, then we'd have to pay them back. Things just kind of worked out.

TEICHER: That's a great approach. I don't think I would have slept for two years.

BERNSTINE: It's just a job.

TEICHER: Obviously as you were out there doing your job, which was raising the money along with [01:27:00] Chris, there were some other people doing some other jobs in terms of designing the building and stuff like that. Could you talk about that?

BERNSTINE: I don't know much. I just raised. Tom would come in and say okay we need another million dollars, and I'd say okay. We had the architects of Bowen Williamson Zimmermann firm here in Madison. They teamed up with a firm out of Chicago called Holabird & Root. Actually the Holabird & Root firm had designed [01:27:30] the Northwestern's law school addition a few years before. We had a building committee, but Tom, one of the things I like about Tom was Tom's a lot like me. He doesn't like meetings. I don't think he likes committees. He basically just ran the show. Tom and Ed and Sue Center basically were the managers of the project. I would go into those construction meetings on occasion, maybe [01:28:00] once or twice just to either say hello, look pissed off, kind of whatever Tom asked me to do. Basically they just did it. I raised the money. I don't think I ever really toured the building until it was complete. I mean, I just knew that I was supposed to raise the money. I trusted Tom's taste in fixtures.

TEICHER: [01:28:30] You weren't micromanaging this [crosstalk 01:28:31].

BERNSTINE: I probably still can't find my way around. If you ask me kind of where things are, I don't even know my office number.

TEICHER: I can attest to that.

BERNSTINE: I know how to find it, but I don't know. I just knew that I had to raise the money and that other people were going to take care of all the other stuff. I did my job. They did their job. We've got a building. Maybe [01:29:00] someday I'll actually walk around and figure out where things are. I typically am not a micromanager. I had faith in people like Tom and Ed and Sue. Tom wanted me to go in and growl at the contractors. He'd tell me that. I'd go in, look pissed off, or he'd just tell them I was pissed off. [01:29:30] Or, if he wanted me to come in and say nice job, he'd tell me. I'd go and say nice job. Chris was telling me, giving me these call cards on alumni. He'd say let's hit the road, and here are the people. I knew kind of how much money they made, what they liked, didn't like. I mean, that was my job.

TEICHER: Did you get good at it? Did you see yourself getting better at it as you went along?

BERNSTINE: Yeah, I don't know. I guess I never really thought I was [01:30:00] that good at it. It was just something I had to do. I enjoyed it. I think as some deans says, the longer you're the dean, the more you enjoy being away from the office because it's the only time you're with people who generally want to be with you. Around here, as [inaudible 01:30:27] said, the one thing about becoming [01:30:30] an associate dean, I think it's true of being dean, you learn more about your colleagues that you don't want to know. Really how much you dislike them, what jerks they can be. To a certain extent that's true. When you're on the road, I mean, you go to some guy's office, a woman's office, and you're the dean of their law school, they're actually honored that you're there.

TEICHER: [01:31:00] Impressed.

BERNSTINE: Yeah. I recall specific instances where you kind of go out, and people are just proud. I went to play golf in Monroe with one of our grants. He was introducing me to all the members of this country club. This is the dean of my law school. Went to see this guy in Appleton, and he has this big paper warehousing company. I walked [01:31:30] in, and he had a sign posted behind the desk, welcome Dean Bernstine. Being the dean is, people are impressed. I don't know why.

TEICHER: Especially when you're off campus.

BERNSTINE: Yeah, they really are. I guess they don't really understand what a dean's job is. They really are impressed.

TEICHER: Well, they found out when you had asked them for a donation.

BERNSTINE: Yeah, yeah.

TEICHER: There were certainly other things going on, speaking of your job as being the dean, [01:32:00] while the construction of the building was going on. This wasn't a one issue deanship. One of the things, I believe it was Tom talked about, is that you had kind of an aging faculty. A lot of these people had been around for a long long time. As what happens in a situation like that, they started retiring [inaudible 01:32:19] a number of them. You had a lot of new hires. Could you talk about, did you have any strategy for the type of people you wanted to hire? How did that [01:32:30] come about?

BERNSTINE: Well, we had the same old people retire and then come back half-time. The question is how do you best spend that half of the salary. Because they were at the high end, for every two that retired, you could hire three at a more junior level. There was a way of actually allowing the faculty to grow [01:33:00] because once you hire the person, then of course increases and stuff kind of they're taken care of through the budget.

TEICHER: You were able to expand the number of faculty?

BERNSTINE: Yeah, bring in some new blood. When I came here as dean, I'm trying to think. There were two people who weren't tenured. I'm trying to think [01:33:30] whether there maybe three or four people who were younger than I was. I was what 40. We kind of all, a lot of us used to go and play basketball on Fridays, and was it Henry Mall and Lathrop used to play on Sundays Vilas. When I got here as dean, we were basically all too old to do that anymore. If [01:34:00] anything we just need to be able to field kind of an intramural sports team. We kind of went for the younger people. We were able to identify some real superstars, potential superstars. I think we've been really lucky in terms of our hires. The main thing for us is going to be keeping them. I think we've done relatively well in terms of minority [01:34:30] hires, but again the issue is keeping them here. We've done very well in the student side. Minority student

percentage has gone up, went from about 12% to 24%. I'm reluctant to take credit for that. You can't do any of that unless the faculty wants to do it.

TEICHER: Still it's done, and it's under your -

BERNSTINE: Yeah, I mean, it's I get credit, but it's like [01:35:00] well how did I do it, but the answer's well I didn't do it. I had a faculty that was committed to doing it, and we did it.

TEICHER: Now I hate to get into naming individual names, but who are some of these people who we'll be hearing from down the line?

BERNSTINE: I think people like Jane Shackner, Victoria Nourse, Michael Smith, people like Ralph Cagle who kind of came in as a middle level [01:35:30] person. He's running our general practice course, but he's kind of brought it into the 21st century. Beverly Moran and Linda Greene.

TEICHER: You're mentioning a lot of women. Has that been a conscious emphasis?

BERNSTINE: I hadn't thought about that, that I was mentioning a lot of women. I don't think [01:36:00] it was conscious. It was just ... I think we've done the right thing. It just turned out that that's the way.

TEICHER: You mentioned a moment ago that you have what how many percents of minority students?

BERNSTINE: About 24%.

TEICHER: One of the questions I gave you on a sheet I sent to you last week is you know you're very conscious of course of what's happening in affirmative action programs in law schools like the University of Texas [01:36:30] and at your alma mater. Do you see that as impacting Madison? How do you see that as kind of playing out in the next year or so?

BERNSTINE: That's good stuff. I mean, we're actually seeing some of that this year for our own pool. I just read an article about a month ago where Texas only had one African American, and then he withdrew. I read an article yesterday where Berkeley only has one.

TEICHER: Well, they accepted [01:37:00] I think about 10, but [crosstalk 01:37:01] went to other schools.

BERNSTINE: I don't know where they're going. It's hard to know. They're not necessarily coming here. A lot of it has to do with environment, the perception of a hospitable environment. I think that's one of the things that we've created. I've always kind of looked at, especially recruiting [01:37:30] students as it's almost like recruiting athletes. Minority students you have to spend a lot of special time trying to convince them that it makes sense to go to a place that they never would have conceived of and probably wouldn't be conceivable in a school. I mean, Madison, Wisconsin is cold as hell. There are no minorities. I mean, why would you want to go to school

in Madison? Well, actually [01:38:00] in terms of law schools, it's a good law school. In terms of environments, it's probably one of the most supportive environments a law student can be in. We actually have a large number of minority students.

TEICHER: Are those students here from out of state as well as in state?

BERNSTINE: Yeah. Mm-hmm (affirmative). It's probably as good a place to go to school as any.

TEICHER: Now you said it's taken a little hit this year though?

BERNSTINE: We're not sure yet, but it look like we may take a hit. Yeah. [01:38:30] A lot of it for us is money. I mean, there were years when we could have as many students as the money would allow us to have. AOF's have kind of dried up.

TEICHER: The AOF's?

BERNSTINE: Advanced Opportunity Grants that carry a in state tuition remission. The amount of money for those hasn't really increased that much. As tuitions have increased, it's eaten up. [01:39:00] Inflation basically has eaten up the number of those that we can give in a given year. We don't know what the final results are going to be. Still, kind of the acceptance patterns seem to be a little bit different this year, so it's still hard. A little bit early to tell, but we could take a hit. We may not be as high as we've been in the past in terms of our minority percentage. We're taking some steps to try to [01:39:30] raise some dough.

TEICHER: Do you want to make a prediction on what's going to happen at the court level with this affirmative action?

BERNSTINE: I don't think it's going to get any better for a while. Jim Jones and I were talking yesterday about what's the best circuit now. There is no good circuit because in a lot of ways we're living with the Reagan Bush legacy of young conservative judges. I'm not [01:40:00] sure where we can go. Disappointing.

TEICHER: Yeah, it's a strange time.

BERNSTINE: It will be a challenge at Portland State.

TEICHER: Okay, let's talk about Portland State. You've been segueing from one topic to another, just making my job so much easier. How did this all come about?

BERNSTINE: Kind of out of the blue. I mean, I decided I was leaving the deanship last December.

TEICHER: Yeah, right. I was going to give you til fall [01:40:30] by the way before I started hassling you. I read that thing in the paper.

BERNSTINE: I planned on being here til fall. Actually thought I'd probably be here as dean through the fall and maybe even through the spring, but certainly through the fall. Then the Portland State thing came up. I don't think they even started their search until February.

TEICHER: Before we get to Portland State, you said you'd be here through like fall. What were you planning on doing after that?

BERNSTINE: I was going to take sabbatical, play golf, and then come back and teach.

TEICHER: You were [01:41:00] planning on staying here but as a -

BERNSTINE: Yeah, yeah.

TEICHER: Now, Portland State comes calling. How did that happen?

BERNSTINE: I got nominated by somebody. Then, their committee wrote me and asked me if I'd be interested, and I said yeah. Then, they actually got on a pretty fast track because their president had resigned. They wanted a new president by July. As I said, I don't think they even started til February. I think I had my first interview [01:41:30] with the committee in May. By the first week in June I was the president.

TEICHER: Oh my. Fast isn't even the word for that.

BERNSTINE: Yeah, the first interview was actually at O'Hare. Then two weeks later, they had interviews in Oregon but at the airport. They actually shuttled us around from [01:42:00] one hotel to the other to meet the various interviewers. Then the next thing was the first week in June when they had the four finalists out. We started on Sunday, had our last interview with the board on Thursday, which was an hour. The board met that afternoon. They actually told us to go back to our hotel rooms, wait for a telephone call. It [01:42:30] was kind of a weird process.

TEICHER: I've never heard of anything like this. You're in the same hotel with the three?

BERNSTINE: It was really remarkable. They had all four finalists on campus at the same time. We never saw each other. I saw one candidate by accident because two groups brought each of us to the same restaurant [01:43:00] for lunch. They crossed wires. I only got a glimpse of them because as soon as they saw me they kind of spun this guy around and escorted him. They had us all in different hotels. Our paths never crossed. Then, the really tough part was I finished up at noon time, and they said we'll call you around 3:30.

TEICHER: You had three and a half hours -

BERNSTINE: Just kind of sitting [01:43:30] in the hotel, waiting for the phone to ring.

TEICHER: Now when Portland State called, had you been thinking about possibly being president?

BERNSTINE: Yeah, I had. I had decided that I wasn't going to wait for a presidency before I left the deanship. I mean, again, I got to the point where it was just a good time to leave.

TEICHER: [01:44:00] That's a very important skill to have.

BERNSTINE: Well, I suspect I probably had another year or two of kind of riding the wave. Everybody's feeling good about the building. They'd forgotten about all the stuff we'd gone through with construction. Students were feeling good again about being around.

TEICHER: Yeah, there wasn't a lot of grousing by the students.

BERNSTINE: Yeah, yeah.

TEICHER: Understandably.

BERNSTINE: I think everybody was [01:44:30] happy that I was dean again. I probably could have stayed on and things would have been fine. It's better to leave I think a year or two too early than a year or two too late. I suspect it probably helped me get the Portland State job rather than hurt me that I left early. When they called back here to talk to people, people were very positive. Two years from now they may have [01:45:00] been positive but not necessarily as glowing. Things start to fade after a point in time. It's like when I resigned, I told the faculty, it's like running a relay race. You get into these passing lanes as a dean. You have to decide either you're going to pass the baton, or you're going to run another lap. I think at the point that I decided to quit I was in a passing lane. Building [01:45:30] was done. Things were looking good.

I had to decide whether I wanted to really start getting ready for the new campaign and sign up for another five years or whether I wanted to pass the baton. I decided well might as well pass. Yeah. I really was expecting to stay on. I figured I'd be on for a while. I always knew that if something else came up, then [01:46:00] I wasn't so compulsive about taking sabbatical that I'd give up a good opportunity just because I wanted to have a sabbatical. Portland State came up.

TEICHER: You said when you came here you didn't know exactly much about what was. What about Portland State? What's going on out there?

BERNSTINE: I don't know. I think it's a school that's searching for its identity. It's a relatively young school, but it's [01:46:30] in the system with the other two ton gorillas, Oregon and Oregon State. It's really the biggest school in the system. It's got the market because it's in Portland. It's the only metropolitan area. I think a major part of what the school's going to have to deal with is staving off [01:47:00] unwarranted advances by Oregon and Oregon State to move into the Portland area just so they can maintain their enrollment levels. I mean, one of the major issues will be making sure that programs just don't get started by those institutions in Portland just because they need the enrollment, not because it makes sense from an educational perspective. [01:47:30] The school's, I think, in search of its, in some ways in search of its identity, just moving into division one sports this year. It's going to be a challenge.

TEICHER: That'll be kind of fun.

BERNSTINE: Yeah, Big Sky Conference yeah. Fundraising's going to be increasingly important. In some ways it will be a lot of the same issues that I've faced [01:48:00] as dean. I think one of the things that the challenges you face in terms of getting a job like the one I got, I think I'm pretty lucky. It's hard to move from being the dean of a law school to the president of a university because people like yourself, not necessarily you, but PhD types don't think that a person from professional school understands what's happening [01:48:30] in other disciplines when as a matter of fact ... I think also people often see the next logical step as being the provost when as a matter of fact I'm probably better trained to be a president than I am to be a provost because as a provost my discipline has much more impact than as a president.

I mean, nobody brings any more than one discipline [01:49:00] to that job. Being a scientist is no more significant than being a political scientist or being a lawyer. You bring that discipline, and you kind of see the world somewhat through that discipline. Your academic training really doesn't have that much to do with what the job is. The job is kind of having a good business sense, understanding education and higher education, but I don't think that I'm at a, in fact, [01:49:30] I'm probably more at an advantage being a lawyer as a president than most people. That's a hard sell to make.

TEICHER: Presidents more and more are handling external affairs.

BERNSTINE: Right, that's right.

TEICHER: That's certainly what you've been -

BERNSTINE: But see most faculties don't understand that.

TEICHER: The provost will do the academic vice president, vice chancellor used to do.

BERNSTINE: But, I bet you I'll probably had to answer that question a thousand times during [01:50:00] the interview. I'll never have to answer it again.

TEICHER: Yeah. Well, you're going to one of the most physically beautiful areas of the country.

BERNSTINE: Yeah, yeah. I'm looking forward to it.

TEICHER: I've spent much time in the Portland area. It is just gorgeous.

BERNSTINE: It is. It is. In a lot of ways Portland's like Madison. Certainly in terms of its kind of racial composition. It's pretty much the same. You [01:50:30] kind of have the civic mindedness of Madison. I think Madison may be just ten times bigger in a lot of ways. It should be fun.

TEICHER: What kind of growth do you see yourself as having in this new job?

BERNSTINE: Actually quite a bit. It's going to be fun and interesting [01:51:00] being actually in a place that doesn't have a law school.

TEICHER: Oh, it does not have a law school.

BERNSTINE: No, doesn't even have a law school.

TEICHER: Oregon and Oregon State have two law schools.

BERNSTINE: Right, right.

TEICHER: Oh I see. Now this is becoming much clearer. You're becoming president of a school that does not have a law school, and your experience has been in law school.

BERNSTINE: Right, right. That's why I'm giving up my tenure and going to be in the school of business or someplace.

TEICHER: Oh that's nice. Oh, I can understand [01:51:30] that.

BERNSTINE: Again, it still is just a job. I suspect that I'll be kind of be wherever I've been all along. Hopefully I'll be out on the streets with the alumni, but kind of around campus. Hopefully people won't be threatened that I might end up sitting in a class, kind of hanging out with students. That's just going [01:52:00] to be it. We'll see what happens. They may run me out of town.

TEICHER: I always like to give people I'm interviewing for the last word. Do you have any last words, anything you want to conclude the interview with?

BERNSTINE: Not really. I've packed it up because that's one of the first things that I take with me, but I always have this picture of a poster that I was in Cuba with Joe Thome when we were faculty members. [01:52:30] We took a group of students down to Havana. We passed this poster, and it had a quotation from Castro, and the English translation of it history will absolve me. I always just kind of keep it on my desk because it's kind of I always figure well if you do the best you can, you do the right thing, in the end history will absolve you. We'll see whether that's true in Portland.

TEICHER: That's a great quote. I don't think I've ever [01:53:00] had a better quote to end an interview with.