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Interview History—Philip Selznick

Philip Selznick founded the Center for the Study of Law and Society at UC Berkeley in 1961 and served as its chair for eleven years. As Martin Krygier wrote in the Introduction to *Legality and Community: On the Intellectual Legacy of Philip Selznick* (Robert A. Kagan, Martin Krygier and Kenneth Winston, eds., Rowman & Littlefield, 2002), Selznick's works "span over 60 years and several disciplinary domains. He has been a major figure in each of the fields he has touched...general sociology, the sociology of organizations and institutions, industrial sociology, sociology of law, and moral and social (or public) sociology." At UC Berkeley from 1952 until his retirement in 1984, Selznick founded not only the Center for the Study of Law and Society, but also the Jurisprudence & Social Policy Program (including the PhD program and undergraduate Legal Studies program), and served as chair of the Department of Sociology.

In January 2002 the Center for the Study of Law and Society invited Roger Cotterrell to Berkeley from Queen Mary, University of London, to interview Selznick. Cotterrell, a leading figure in the sociology of law in England and internationally, is the author of *Emile Durkheim: Law in a Moral Domain*, *The Politics of Jurisprudence*, and *Law's Community: Legal Theory in Sociological Perspective*. The transcribed interviews were reviewed and lightly edited by Roger Cotterrell, and reviewed for accuracy by Philip Selznick. We were and are grateful for the advice and assistance of Ann Lage and the Bancroft Library's Regional Oral History Office throughout this process, and our thanks to Mim Eisenberg for her professional transcription.

Excerpts of these interviews, selected by Jiri Priban, were published as “Selznick Interviewed: Philip Selznick in Conversation with Roger Cotterrell,” in the *Journal of Law and Society*, Volume 31, Number 3, September 2004, pp. 291-317.

Rosann Greenspan
Executive Director
for Law and Society

June 24, 2010
ROGER COTTERRELL: Oral history interview with Philip Selznick by Roger Cotterrell, 28th of January, 2002 [at Philip Selznick’s house, Berkeley], interview number one, tape number one. I wanted to ask you a few things about early years, family background and so on. I think I got some facts, which I hope are right. You were born 8th of January, 1919.

PHILIP SELZNICK: Right.

COTTERRELL: New Jersey.

SELZNICK: Newark, New Jersey.

COTTERRELL: Your father was Louis Schacter?

SELZNICK: Louis Schacter, yes. He was an immigrant. I don’t know really much about him. My mother and father were divorced when I was still a very small child. I was a year old or something like that.

COTTERRELL: And your mother, Etta Bragar [pronouncing it BRAH-gur].

SELZNICK: Bragar [pronouncing it BRAY-gur], B-r-a-g-a-r, yes. She was also an immigrant, from Russia. I think he was an immigrant from Romania. There was some scandal, and they had a divorce and my mother remarried to a fellow whose last name was Selznick, my stepfather. I was still quite young then, four or five years old.

COTTERRELL: They were divorced, according to what I read from [Douglas] Webb’s paper, in 1921, so you must have just been two.

SELZNICK: Is that right, ’21? That sounds right, yes.

COTTERRELL: So your mother remarried.

SELZNICK: Right.
COTTERRELL: And his first name, your stepfather’s first name?

SELZNICK: Manuel, M-a-n-u-e-l.

COTTERRELL: Selznick. So you adopted his surname.

SELZNICK: Yes, it wasn’t a very explicit act. I think when I was sent to school, that was the name they put down, and that’s the name I’ve had. I’ve always been a little bit alienated from it. I’m not comfortable with it.

COTTERRELL: Why is that?

SELZNICK: Well, because I never did feel that this was really my name. I never felt that the other was really my name, either. I think for a time, when I was graduating from college, I thought of changing my name to-- the only family I really knew was my mother’s family, and so I thought of taking the name Bragar, but at that point I think I felt, Well, no, that would be hurtful if I did that, so I didn’t do it. As it turned out, it didn’t matter because a couple of years later, they got divorced too, my mother and stepfather, so it really wouldn’t have mattered. But we play the cards we’re dealt, and one of the cards I was dealt was this name.

COTTERRELL: Right. I think your stepfather worked in the garment industry.

SELZNICK: Yes, he was a cap maker. He worked throughout the Depression, even while we had this store in Newark. He went to work every day. I guess that’s how they managed to survive without extreme poverty. I mean, there wasn’t any money around, but it wasn’t that extreme.

COTTERRELL: So you really grew up in very much a working-class family?

SELZNICK: Yes, very much so, yes.

COTTERRELL: Did you feel as you were growing up that it was a pretty tough life, that it was hard?

SELZNICK: Not really, no. I became something of a bookworm rather early in my life, and so I think that I lived in this world of books. I read every one of [Alexandre] Dumas’ books. I read a great deal--I’m talking about when I was, I don’t know, ten, eleven or twelve years old. I read a lot of things like the Greek myths and so on, and I was a regular patron of the library. I think that helped to define me more than anything else. It was the world of reading and I was able to read, and so I think I probably gradually distanced myself from family life. I mean, it was there. Of course, you’re married to it, but it was not-- I mean, this was a struggling world. I think there wasn’t a lot of strong sense of much to be gained from the family as such, although I did relate to some people in my mother’s family, like a couple of my uncles. One uncle, especially, whom I visited. I had a cousin, one of his sons, who was more or less my age, a little bit younger, and so we were good friends. So I would visit there.

COTTERRELL: But you said your stepfather and mother were divorced fairly soon, so the center of your family was your mother in those years?

[Both accept refreshments.]
SELZNICK: Yes. My relation with my stepfather was always very distant. There was no real connection there.

COTTERRELL: I wanted to ask you whether you felt your childhood and school days were a happy time.

SELZNICK: Mixed. [Speaks with food in his mouth.] I think they were kind of mindless times, years. You just did what was expected of you, and you didn’t think too much about it. I was always aware of being somewhat marginal.

COTTERRELL: Was it a political household? Political interests?

SELZNICK: No. No.

COTTERRELL: And a religious one?

SELZNICK: Not religious, either, or at least minimally, conventionally religious, enough so that—respectability as a Jewish family would require that a boy would be sent to Hebrew school and prepare for his Bar Mitzvah.

COTTERRELL: So you did that?

SELZNICK: I did that. And I was circumcised as a baby, too. Nobody asked me.

COTTERRELL: [Laughs.] How do you think your early upbringing has shaped you?

SELZNICK: Has shaped me?

COTTERRELL: Particularly, yes.

SELZNICK: I think the main thing was really I had these opportunities to take reading seriously. I think that really was— I think I was creating my fate when I was so absorbed in The Three Musketeers and Ten Years Later and Twenty Years After and The Queen’s Necklace and so on, and all those books. I remember weeping a little bit, sitting in a rocking chair in our backyard and finishing The Count of Monte Cristo and being very unhappy that it was over. [Laughs.] I had come to the end of it.

So I think really, when I reflect on it, that that was the critical thing. But it was mostly just what books could mean to you.

COTTERRELL: Opening up a world.

SELZNICK: Opening up a world, an imaginative world. I think there was almost no political—this was a family in which people were struggling against heavy odds to make ends meet, and not always easy to do. But I had time for relaxation. I’d go out and play ball.

COTTERRELL: As far as I can tell, you’ve always had this kind of strong moral impulse that drives you. Does that date from early years, or do we have to look much later?
SELZNICK: It’s very hard to say. I think it’s more later, not early.

COTTERRELL: Do you remember any particular subjects you were drawn to at school?

SELZNICK: In high school?

COTTERRELL: Yes.

SELZNICK: German. I had a very good German teacher. Do you know the phrase, **Buchstäblich übersetzen bitte?** Translate literally. Every ending had to be accounted for. She was a very strict disciplinarian, but she was very good at that. I don’t think it was very substantive. I did enjoy the German class and, to some extent, less so, the Latin class I had.

Maybe this was a very important thing, too: that the high school to which I went was at that time a well-known college preparatory school, often compared I think, probably in an exaggerated way, to the Boston Latin School. At least in Newark, it was the high school for young men who were supposed to, who would be expected maybe to go on to college, and so it had some of the subjects.

My Latin teacher’s name was Mr. Taylor. He retired, I think, shortly after—well, maybe while I was still in Newark. His retirement was front-page news for the *Newark Evening News*. That was how much he was respected.

We had a history teacher. I still remember her name. She had a Ph.D. That was Dr. Capen. No, maybe it wasn’t history; maybe it was English literature. Anyway, I think it was a good school. I got a lot out of it.

COTTERRELL: So you took to languages quite well.

SELZNICK: Yes, languages were important to me, also as kind of a new world. Besides, I think probably I’ve always had a fascination with words.

COTTERRELL: You’ve got facility in several languages?

SELZNICK: Well, German was my main language. I’ve learned some French since then, and things like that, a little Spanish, a little this or a little of that, but German was... And then, when I went to City College [of New York], I wanted to take some German courses, but I soon gave it up because the instructors were so much inferior to what I had been accustomed to. They weren’t really interested in teaching German; they were interested in, I don’t know, getting through the class, I think, kind of introducing you to some German literature, but not really to serious study of German. It was superficial, and I didn’t like that.

COTTERRELL: So obviously your family, or your mother, must have decided that you were going to go on to education.

SELZNICK: I think there was a certain ambiguity about that. I always took it for granted, and I think that was not too difficult. I think it was accepted that if you were a boy, you could do that if you had the qualifications. But I think money was so short that— I used to hear comments such as, “Wouldn’t it be nice if you could go out and get a job and pay a certain amount?” Things like that.
COTTERRELL: Yes. You must have been under a lot of pressure, really.

SELZNICK: I don’t think that affected me very much. I just took it for granted that some way...

COTTERRELL: Okay. So City College. You have to explain to me, as a foreigner, who doesn’t really know much about what sort of place--

SELZNICK: City College?

COTTERRELL: -- it was, yes.

SELZNICK: The City College is a college within a larger structure called the City University of New York. I think it was even then that way. There were several colleges. City College was free, for one thing. You had fairly high admission standards. You had to meet certain qualifications to get in. It was all boys. There was another college called Hunter College (it’s still there), which was for girls. There was a gender separation. I don’t know why they say that nowadays, “gender.” But the City College was very much of a place for people to go from immigrant families who were upwardly mobile, who didn’t have any money. There was no question of going to a college for which you had to pay tuition. You wouldn’t think of it.

COTTERRELL: So if you got through the entrance exam, you would get a scholarship, effectively?

SELZNICK: Yes, basically. It didn’t cost anything to go there. I cannot remember any details about how I got in, because I don’t think I was a really super student. I mean, I don’t think I was the kind of person who got straight A’s and things like that in high school, even. But I probably was in the top 15 percent or something like that. I really don’t know how that worked, but anyway, I was admitted.

As it happened, my family did move to New York just about the time I graduated from high school, so that made it easy for me. I was a New York City resident. I could go to City College. The alternatives would have been grim if I had stayed in Newark.

COTTERRELL: So you were still living at home while you were at City College?

SELZNICK: I was still living at home, yes.

COTTERRELL: At some point, you must have decided what you wanted to study. You did a Bachelor of Social Sciences. You graduated with a Bachelor of Social Sciences.

SELZNICK: Yes, that was the degree that they gave at City College. Yes, at some point I decided to major in sociology. I’m not exactly sure why. I think originally it had to do with the idea that you might be able to get a job as a social worker. I didn’t really have any particular ideas about the larger significance of sociology, but I think gradually that developed.

COTTERRELL: Because, it would be hard to know what it was, wouldn’t it? At school you wouldn’t have any kind of knowledge of sociology.

SELZNICK: Yes. You really wouldn’t know what it was. I think it was more a matter of-- it may be, indeed, that the department was called Sociology and Social Work. I think so. So there was that kind of
a practical thought, and like many other students, I had very limited aspirations to begin with. I was just hoping to get out of serious poverty, things like that.

COTTERRELL: But as you said, you didn’t really experience serious poverty, but it must have been all around you. You could see that you needed a good job for security?

SELZNICK: Some kind of a job, yes. Right, right.

COTTERRELL: And so what was the academic environment of the college like? Was it a stimulating place to be?

SELZNICK: It was very stimulating, not so much in sociology but in other fields, very stimulating. I took courses-- they had wonderful young men teaching courses in science. They had required science courses. Science survey courses, they were called, biological science and some in physics and so on. They were wonderful. Very smart young people. I mean, I call them young now because they were young. They were sort of newly-minted Ph.D.s and so on who were teaching there. It really opened my eyes a lot. I didn’t know anything about any of this sort of thing.

Then I was also very much stimulated by courses in philosophy.

COTTERRELL: That’s Morris Cohen?

SELZNICK: Especially Cohen, yes. I had a connection with Cohen in two ways: one, I took his sort of large general course that he gave on Philosophy of Civilization, but really much of my last year at City College was taken up with an honors course, which was a very important thing for the rest of my life, really, in which I focused-- I did, really, a study of the culture and personality school in anthropology.

Cohen was the faculty advisor, organizer and so on of this honors program. So we would meet occasionally with him and a couple of other faculty members, those of us who were engaged in this honors program. But the program was really just individual study. You had your own project, and you just did it. And that was in place of, I don’t know, a number of units of class work.

I was at City College only for three years, a little over three years, three years and a summer, I guess, because they had the practice of giving you extra credits for higher grades. When you look at it, you realize it was a strictly economic venture. They were trying to get people through as fast as they could. So I wasn’t even there for four years. I was there for only three, and my last year was almost exclusively devoted to this-- So, really, it was only the first two years that I was much involved in taking miscellaneous courses.

COTTERRELL: So in those first two years, you did a great variety of different things?

SELZNICK: A lot of different things, yes.

COTTERRELL: Science, philosophy...

SELZNICK: It really was very stimulating. Of course, I was then-- during my last year or maybe slightly before that was when I got involved with the young Trotskyists. That was, of course, extremely stimulating, too.
COTTERRELL: Yes. That would sort of take you out of college as well!

SELZNICK: Yes. Intellectually, it was very challenging.

COTTERRELL: We’ll come to that in a moment.

SELZNICK: But yes, it was an extremely challenging, stimulating environment. I think even then, when I was so young, I knew that the Sociology Department was not made up of people of very strong intellectual--

COTTERRELL: So it was the philosophers, really, the philosophy that attracted you?

SELZNICK: I would say between philosophy and science, those were the formative things for me.

COTTERRELL: I know you read [John] Dewey during that time. I wanted to talk about that in a moment, but just staying with Morris Cohen for a moment, it interests me, from the legal philosophy point of view, that Cohen was writing quite a lot about law and had written a lot about law by that time. He published his *Law and the Social Order* volume just a few years before you went there. Were you aware of any of that?

SELZNICK: I’m not sure I was at that time. I think I became aware of it later. Actually, I wasn’t that connected to Cohen’s ideas about law until later. What really impressed me about Cohen-- I think it had a big influence on me-- was, well, just the quality of his mind. I was a very close reader of his major book, *Reason and Nature*. That affected me a lot.

COTTERRELL: What was the effect of that?

SELZNICK: I think it helped to give me a broader vision of what scientific method was about and some of the larger implications of that; some of the history-- for example, his critique of Francis Bacon and things of that kind. And I think I always had, in the back of my mind, Cohen as a kind of role model. Somewhere in the back of my mind was the idea that it would be very gratifying that I could write a book that I could think of as my *Reason and Nature*. In other words, he had written this general book, in which he dealt with broad issues and so on. I sort of liked the idea of doing something like that.

He, himself, you know, was not that appealing a person. He was not someone you could get really close to. He was somewhat austere, a sort of reincarnation of [Baruch] Spinoza. [Laughs.] In the way he looked. He had that kind of Sephardic, slightly Spanish look. He was well known for some of his very caustic comments in class. For example, a famous one was, “Well, you should have the courage of your confusion,” something like that. He would say things like that.

And he would-- When the word was out among the political activists that Cohen was going to give his lecture on [Karl] Marx and so on, it would be packed, including by the activists who wanted to hear what Cohen was going to say so they could refute him in the alcove.

Yes, it was a very interesting, exciting place. I felt comfortable. I felt always under great pressure, which I didn’t really like. I didn’t enjoy preparing for exams and things of that kind, but I did it.
COTTERRELL: But you didn’t have any contact with legal thought? Because legal realism was becoming powerful, was very powerful then, and Cohen was sort of involved on the fringes of that.

SELZNICK: No, that came later.

COTTERRELL: And you read John Dewey during those years, I think.

SELZNICK: I guess we started reading Dewey that last year. During that last year, I got together with Gertrude, who must have been—during my last year at City College. She and I spent a great deal of time together, reading things, including a lot of Dewey. So I think that went on through that time, too. It took a little while for me to realize how important that way of thinking was or would become for me, but ultimately I did realize that. We weren’t just reading Dewey. By the time ‘38 ‘39, ‘40—during those years, we were also reading other things that were quite formative, like [Reinhold] Niebuhr.

COTTERRELL: And, of course, he was a critic of Dewey.

SELZNICK: He was a critic of Dewey, but we accepted Niebuhr’s criticism of Dewey. That didn’t change, didn’t really change the fundamental outlook. You could say, Okay, Dewey was too optimistic; he didn’t have a really strong concept of evil. My wife, Gertrude, once wrote an article for a little magazine that we were publishing for a while, called, “The Philosophy of the Once Born.”

COTTERRELL: I picked that up, yes. Such a good phrase, yes.

SELZNICK: Well, that comes from William James. In that piece, she criticized Dewey. I never thought it was important to save documents, but Dewey saw it, and he wrote a letter, complaining about it. Unfortunately, I don’t have it.

COTTERRELL: And the criticism essentially was that Dewey’s ideas were the ideas of the once born because he hadn’t really appreciated the evil in the world?

[End Tape 1A. Begin Tape 1B.]

SELZNICK: This was very similar to Niebuhr’s criticism, that idea that Dewey’s was a philosophy of the once born because he presumed that education, good will, and knowledge could always resolve problems, and he didn’t accept as fully as we thought he should, the idea that you need power to check power and that people have to face the dilemmas of using power. Of course, that was very much Niebuhr’s argument as well.

We read some of the other religious writers, especially Paul Tillich and a couple of other people like that.

COTTERRELL: So theology was quite an important interest, in a way?

SELZNICK: Theology has been an important interest for me for most of my life, even though I wouldn’t claim to know much about it. But I think theology was interesting to me—Well, I’ll put it this way: I felt, particularly after the war, that there were people who had been experiencing God-hunger, that they really wanted somehow to believe in a god or relate to God. I didn’t look at theology that way. To me, theology was a way of getting at certain truths about human nature and the human condition, which
weren’t being captured in other doctrines, and that’s why we were attracted to it. Maybe Niebuhr was attractive because it was really so easy to translate Niebuhr into naturalist terms. He virtually did it himself. If you look at his discussions of the sin of pride, for example, he relates it to the ways people have of dealing with anxiety and tries to give a kind of psychological explanation of it and so on, with other things.

So yes, I think this happened very early on. There’s no question it was a very formative thing.

COTTERRELL: Did you ever read Simone Weil?

SELZNICK: Yes, Simone Weil.

COTTERRELL: I mean the sort of very open and critical...

SELZNICK: One of the people who was quite interested in Simone Weil was a journalist, whose name you may have heard, Dwight McDonald. After the war, Dwight published a magazine called Politics. He had a flare for doing these things well. One of the essays he featured was one by Simone Weil called, “The Root Is Man.” I remember that. There were a lot of people in those days who were searching for some way of understanding--

COTTERRELL: Yes, and sort of mixing politics and philosophy and theology.

SELZNICK: Yes, right, because it seemed necessary to-- We were going through this whole political experience of trying to cope with what I called somewhere the moral ruin in the Soviet Union and giving it a larger significance about the relationship between means and ends, and things of that kind. So there was that effort always to connect up philosophical ideas with these issues of social practice. That’s been a theme, I guess, that’s stayed with me for a long time. I think it’s been quite fruitful to do that.

COTTERRELL: Yes. Just staying with Dewey for a moment, you told me some of the problems with Dewey’s ideas. What was so important about Dewey eventually?

SELZNICK: I’m not sure exactly how to answer that, but I think that certainly one of the most important themes to which I and Gertrude, together, we resonated was this idea of seeing values and ideals in nature, the notion that-- this is partly an Aristotelian idea, the idea that human interaction can be understood normatively in terms of the sorts of satisfactions that are experienced and the worth of the ideals that are generated in that experience. And so this is a model that would apply to many other contexts.

I think that certainly influenced the way I later came to think about law, but also about organizations and things of that kind. I was interested in the latent moral significance, you might say, of social experience. Dewey did a lot to articulate that. I think I was quite interested in his related themes. I think later, in The Moral Commonwealth, I called it the humanist naturalism. Not just naturalism, but a special kind of naturalism, which tried to focus on the problems faced by human beings as they encounter the world, and the impulses to reconstruct the self and also the environment as a way of dealing with those problems.

I think the idea of problem solving, in Dewey’s sense, was very important because he didn’t mean problem solving in the sense of solving a mathematical problem; he meant that there are problematic
situations created for organisms of various kinds, and the organism searches for ways of resolving these problematic situations. Some of these ways have to do with cognition. As you learn more things, you create what the pragmatists like to call funded experience as a resource for dealing with problems.

And he also saw this in another way, that these problematic situations, which are troublesome, can also lead to certain kinds of aesthetic experiences so that what he called consummatory experiences would be another direction which human beings could go to overcome the difficulties that life offered.

Gertrude and I used that idea, I think, in “A Normative Theory of Culture”. I think one of the themes was the central, the core experiences, the encounter of human beings with this external, impersonal world, the encounter with impersonality, and how do you deal with that? You deal with that in one way by creating culture, by investing the world with meaning.

All of these things are very much embedded in the pragmatist tradition.

COTTERRELL: Yes. So that obviously had a big impact early on.

SELZNICK: Early on.

COTTERRELL: And in a way, it sort of flourished.

SELZNICK: Very much so, yes.

COTTERRELL: The implications of it unfolded.

SELZNICK: Right, and I have, for most of my life, felt that this was my major intellectual debt, was pragmatism. I didn’t see this as divorced from other things completely. For example, one of my most influential teachers at Columbia [University] was the philosopher, Ernest Nagel. I took several of his courses, the Philosophy of Science. There’s a kind of interesting connection: He worked with Cohen on what was a well-known--

COTTERRELL: Oh, yes, Cohen and Nagel [Introduction to Logic and Scientific Method], yes.

SELZNICK: Yes, a well-known book on logic. But Nagel was also very much of a pragmatist, and he was quite close to Dewey in his thinking. He was more rigorous in his thinking and more interested in that, but he had a lot of that in him, too, so Nagel represents also a kind of bridge for me.

COTTERRELL: Okay. So, in 1938 you began graduate studies at Columbia University. We need to talk about that. I wonder whether initially this was a place to be while you got on with your political activities, in a way, because you were very politically active around that time.

SELZNICK: Yes. You could put it that way, but it wasn’t just a place to be. I thought it was a natural thing for me to do, would be to go on to graduate school.

COTTERRELL: I think the reason I put it that way is because Webb says, “When Philip Selznick entered Columbia, he had only a hazy idea of where his graduate studies would lead him and felt it was important to continue his education but didn’t really think in terms of preparing for an academic career at that stage.”
SELZNICK: I didn’t, because I was so involved with the political scene that the idea of leaving New York, being outside all of this, seemed hard to accept, so I really wasn’t sure what I was going to do with this, but it seemed obvious that that’s where I was. I think a lot of this had to do with the fact that it was all continuous with the work that I had done in that honors program on the culture and personality school. I really learned a lot, and I read an enormous amount of anthropology. I became very familiar with that.

COTTERRELL: So it was anthropology, more than sociology initially, in terms of social science?

SELZNICK: Well, no I wouldn’t say that exactly, because I was interested in other things in sociology that anthropology wouldn’t-- Like [Max] Weber on bureaucracy. The theme of bureaucracy was, of course, very central to us in those days because we were kind of led to think about-- given the nature of the Soviet Union and the kind of regime that was created there, we had problems how to characterize that. One way of characterizing it was to call it bureaucratic collectivism, things like that.

In about 1938 or so, we became familiar-- 1939 maybe-- we became familiar with Robert Michels’ book on Political Parties. That had not been reprinted, but somebody or other had a copy that he was passing around. Various people claimed that-- Dan [Daniel] Bell, I saw him the other day, not the other day but a month or so ago. He claims that he was the one who did that. I don’t remember it that way, but that’s okay. But some people knew about that.

We were quite impressed with it. This was a powerful way of explaining what could happen to organizations. Michels wrote basically about the socialist organization.

COTTERRELL: Yes, the SPD [German Social Democratic Party].

SELZNICK: Organizations that were committed to ideas, but they were doing the kinds of things and implicating the organizational imperatives that would lead to this self-perpetuating leadership.

COTTERRELL: Okay. Just before we talk about Michels and [James] Burnham and so on, why did you get involved-- Why did you affiliate yourself to Trotskyism, anyway, because it was quite a shift? Reading Dewey had been an important thing in the mid- thirties. What was the matter with what you were reading which made you feel that something much more--?

SELZNICK: [Interrupts.] First of all, I’m not sure-- I can’t remember exactly, but I think reading Dewey came after, not before, or more or less at the time. It was in stages. I would say the first impulse to move in that direction-- I don’t know what to say. I would only say that it was one of various times in my life, and I’m sure other people’s lives, when you get kind of carried away. There’s this passion of youth which wants to get “the real truth” and not to be satisfied with wishy-washiness and things of that kind.

So I think we went through a period, like, when I was eighteen years old or something like that, when we’d have contempt for liberals and people like that, who weren’t taking firm stands on things like that. And so I think-- I don’t know, we went to a couple of meetings and heard these rousing speeches by these Trotskyist leaders, and said, “Hey, that’s where we should be.”

COTTERRELL: And was it perhaps-- You said you’d got into books, you loved books and so on. Was there also a side of you that wanted to be much more active and make things happen?
SELZNICK: I wasn’t too aware of that. I’m not so sure that I—think I had the natural disposition to be something of a public person. That became quite clear. And it may have been influenced also by books, but also by the fact that I was much attracted to words, and I memorized lots of things. I used to take walks by myself and spend part of the time just reciting various things I had memorized. I had some sense of being fluent with words and had some interest in eloquence and things of that kind, and that probably had some effect on this. But I would say that, as probably is very characteristic of many people, not a whole lot of thought went into this! [laughs] I mean, we just were— Any more than when people fall in love, they give a lot of thought to it. They get carried away.

COTTERRELL: I often think of [Max] Weber’s [essays on] “Politics as a Vocation”, and “Science as a Vocation”; he was sort of in a way yearning to do both [science and politics] but needed to see them as separate.

SELZNICK: Right. I think one way I characterized this— When you join such a movement, someone like me, you spend the first year just getting into it, getting to learn what the ideology is. Then there comes a reconsideration. Part of the time when I was at Columbia after ’38, during those first years, I spent a lot of time by myself, and I did a lot of reading, including careful reading of Marx and critics of Marx and so on. I gradually came to realize this was foolish; I was distancing myself from this, even while I was still actively involved.

That’s true of people in most of these movements. You spend some time before you leave— You don’t leave at the first sign of disaffection. First you think, “Well, maybe I can reform this thing” and so on and so forth. You’re pulled in different directions. There are a lot of satisfactions that come. Certainly one of the most intellectually exciting times of my life occurred during the internal factional struggle within the Trotskyists, which began, I guess, in late ’38 or ’39, which led to the creation of the Workers Party, the Shachtmanites.

But before that, for a year or so, there was this intense intellectual struggle, this debate, these internal documents coming out every week. We were fascinated by it. And these speeches! They would go on for hours! We were fascinated. These were very good orators. They were fascinating to listen to. We had to make up our own minds what we thought about all this, and so on and so forth. So it was a big experience. I’ve never gone through that again. I mean, that was that. That was the only time that we had such an experience.

COTTERRELL: It’s probably hard to look back now, but what did you hope for from that, when you were young in that time? What did you think could come out of it which would change the U.S., which would change society?

SELZNICK: Well, we were, without having thought about it very much, convinced that we needed some kind of socialism. And then the question was: How do you get there? The appeal of the Leninists was that you would get there by some social engineering, social engineering of the revolution. That’s why it was possible for me, for a period— it may have been a whole year or so— to stay within the Trotskyist movement, even though I was already— I didn’t want to consider myself a Marxist. I think I mentioned that in that piece about Irving [Kristol].

COTTERRELL: Yes.
SELZNICK: Yes. And I was trying to say we should give up on Marxism. It was foolish. I mean, when I look back on it now, I think it was stupid, but that’s what happened.

COTTERRELL: I suppose the Nazi-Soviet pact was a really big thing, 1939, because that obviously had a huge impact on the left generally, didn’t it? I know it did in Britain.

SELZNICK: It had more of an impact on the Communists than on the Trotskyists. We were not particularly surprised by the pact, but what was an incident-- When the Soviet Union invaded Finland, then the question was raised: what’s going on here? This worker state invading a neighboring country? The Nazi-Soviet pact was taken as a vindication of all of the bad things we thought about [Joseph] Stalin. I didn’t think it was really that significant for us.

COTTERRELL: [Leon] Trotsky’s position was that the Soviet Union was very flawed, but there was hope for it.

SELZNICK: Yes.

COTTERRELL: Yes. And I think maybe by that time, if I’m right, you’d already-- Well, the Shachtmanites and so on had rejected that position in a way. There was no hope for the Soviet Union, basically.

SELZNICK: Yes, right. They gave up on the idea of the Soviet Union as, Trotsky would call it, a degenerated workers’ state, things like that.

COTTERRELL: And then [James] Burnham’s Managerial Revolution came along, the book, in 1941. Did that have a big impact? Was that important? He was making very strong claims, having come from the left. He was saying socialism in fact was an impossible dream, I think.

SELZNICK: Yes.

COTTERRELL: The new world order would be dominated by technocrats.

SELZNICK: I don’t think it had a big influence. What he said was not very surprising. It was more surprising that it was so popular. The book became something of a best seller during those periods. That didn’t mean it sold an enormous amount of copies. I think you could sell 10,000 copies and be a best seller in those days, for a nonfiction book. But I was really more interested in his later book, called The Machiavellians, in which he discussed Michels and [Vilfredo] Pareto and some of the other people. It was a somewhat superficial book, but I did use it in some of my classes because it presents in a fairly easy way some of the arguments about the importance of connecting power and liberty and things like that.

COTTERRELL: But Michels’ Political Parties was much more important?

SELZNICK: Right, Michels. I think he spent quite a bit of time on Machiavelli, especially the Discourses. And Pareto. I think Cohen used to say that the only way to understand Pareto’s Mind and Society was that he was an insomniac. [Both chuckle.]
COTTERRELL: Yes. I suppose all of these theories were in a way coming together for you: [Gaetano] Mosca and Pareto and Michels and so on. This was all undermining the idealistic claims for Marxism, the possibility that it held out of real transformation.

SELZNICK: It was an undermining-- I don’t think it undermined the basic ideals, say, of social justice, but it called attention to the utopian elements of all of these things, the importance of providing for safeguards against the dispositions that people have to abuse power and take advantage of positions, turn public philosophies into hardened ideologies, all of these things. Those were the things that we were really learning from that.

But I think that-- maybe it had to do with Dewey, but for people like me, we never really gave up on sort of the ultimate moral lessons and the importance of, in Christian terms, the law of love or things of that kind. The only thing was that you couldn’t allow this to be identified with some specific human embodiment of perfection. In the last chapter of this new book I have [The Communitarian Persuasion]-- the chapter is called “A Common Faith,” and I discuss a little bit some of these basic principles. They are nothing original. They have to do with the idea that you don’t allow any human institution to represent itself as the union of power and perfection, that we don’t grant absolute power to the human institution. Only in God can there be a union of power and perfection.

That maybe sums up the basic lesson that we’re all concerned about. That’s why it was very easy for people like me to accept the basic views of the American founding fathers and the Federalist Papers, which were very consistent with all of that. But I think what I discovered was that many of my contemporaries did not seem to be able to hold in tension this idealism and realism, and they would fall of a cliff into realism, moral realism and draw unnecessarily pessimistic conclusions about what could be done. That, to me, has been a continuing issue.

I’m not sure exactly who I would present as a representative figure, in general terms, of that view because even Dewey-- I mean, I liked what he had to say about the importance of democracy, the culture- -

[End Tape 1B. Begin Tape 2A.]

SELZNICK: [Also important was] the philosopher, George Santayana. Morris Cohen appreciated Santayana very much. As a matter of fact, he used some of Santayana’s writings from his major book, The Life of Reason. I read a lot of Santayana. The big paradox was that Santayana was a writer completely different from Cohen. I mean, he was more poetic, more allusive, less rigorous in a way. And yet somehow Cohen was able to appreciate what Santayana was after, and I think Santayana had much more of this Aristotelian view of the dialectic of the ideal with the real. And that came out quite a lot. I suspect that helped me to keep on track about that. It’s hard to know.

COTTERRELL: Yes. It’s interesting because in a way it’s always been a minority tradition. Maybe in the States there’s been a stronger impetus [than in Europe] to sort of bring science and morality together through social science.

SELZNICK: In the States?
COTTERRELL: Yes, perhaps, because of the pragmatist tradition and so on.

SELZNICK: I suppose so. But it’s lost a lot, I think. And now, through the influence of people like Richard Rorty, it’s really become, I think, distorted because he sort of assimilates it to a postmodern way of thinking.

COTTERRELL: Yes.

SELZNICK: Too much so.

COTTERRELL: Okay. In nineteen forty-two you founded *Enquiry* with Gertrude, and Irving Kristol.

SELZNICK: Yes. That was after we left the Trotskyists. We felt that we still had something-- and almost all of us, I think all of us, joined the Socialist Party, the youth-- We were too young to-- We were the Young People’s Socialist League.

COTTERRELL: That was the year before, wasn’t it, that the Sherman group left--

SELZNICK: What?

COTTERRELL: It was just the year before, 1941, that the Sherman group left the Workers Party and joined the Socialists.

SELZNICK: In 1940, I think. We left in 1940. Yes. [Phone rings.] About a year later, we started *Inquiry*. That continued in a half-assed way for a few years, including the time when I was in the Army. I wrote a couple of pieces when I was still in the Army.

COTTERRELL: What were you trying to do with the journal?

SELZNICK: I don’t know. We were expressing ourselves. We had left the Trotskyists, and we were trying to explore some of the ideas that were still problematic to us, including the meaning of socialism. I haven’t looked at it for a long time, but I think a couple of the essays that I wrote reflected very much this idea of redefining socialism in ways that would take account of the pluralism and things of that sort.

COTTERRELL: So you were still trying to hold to a notion of socialism of some sort.

SELZNICK: Yes.

COTTERRELL: Having rejected Marxism.

SELZNICK: Yes. We called it “a journal of independent radical thought.” So we thought of ourselves still as radicals and socialists, but socialists in this more hard-edged sense of limiting it to defined ideas, and limiting within a framework of checks and balances and constraints and so on. And people within the socialist movement didn’t like what we were saying. My old friend, Lewis Coser-- You know of him?

COTTERRELL: Yes.
SELZNICK: He wrote a couple of critical pieces in there, where he was defending a more traditional view of socialism and so on. I think one of the other socialists was doing that, too. But we were active in the socialist movement, still.

COTTERRELL: Okay. I’m not quite sure where I got this from, probably from Webb’s article, but it’s sort of a checklist, anyway, of perhaps where things stood by around 1942 with your thinking. Tell me whether you think this is fair. Recognition of the inevitability of rule by minorities and the development of bureaucratic classes. This is something which was inevitable.

SELZNICK: Yes.

COTTERRELL: The need to limit the ruling class and the new state within strict-- to put strict limits on it. Power is a problem; you had come to see power as a problem through Michels particularly.

SELZNICK: Yes.

COTTERRELL: The need to sacrifice governing power as far as necessary to preserve individual rights and the rule of law.

SELZNICK: Yes.

COTTERRELL: So the rule of law by that time has become--

SELZNICK: Yes, but it’s not very prominent. I really hadn’t thought very much about it. Yes, I think that’s really true. I guess I, kind of early on-- I wanted to be realistic. I thought we needed to infuse all of this with a good dose of realism. Part of it had to do with--

I’m going to have one of these good cookies. [Opens package.] These are just-- What do you call them, Crumblies?

COTTERRELL: Yes. [Chuckles.]

SELZNICK: Is that because they crumble?

COTTERRELL: Oh, yes, definitely. Yes.

SELZNICK: [Chews and swallows.] It seems to have developed my thinking, the idea that it was wrong to criticize elites. Society couldn’t function without elites. The problem was how to design them or govern them, limit them so that they don’t do more harm than good.

COTTERRELL: And the idea of a balance of powers of some sort.

SELZNICK: Yes. I think you had to have a balance of power.

Did you ever read the discussion of what I wrote in this book by my old colleague, Sheldon Wolin? Do you know who I mean?

COTTERRELL: Yes. Sure.
SELZNICK: This is in his major book. *Politics and Vision*, it’s called.

COTTERRELL: Oh, yes. Right.

SELZNICK: He has a chapter which he devotes mainly to a criticism of my views. There’s a response to that in a book that Amitai Etzioni published, a book of essays about organizations and so on. I wrote a response to Wolin on that. Wolin picked up on this elite business. Maybe he had more of a point than I thought. I think he traced it to Leninist ideas. I had never thought of that, but maybe there was something to that. Maybe my awareness of the importance of elites had something to do with the fact that being involved in a Leninist type party necessarily made you feel-- You were very comfortable talking about vanguards and--

COTTERRELL: Yes, that’s right, the party as the vanguard, yes.

SELZNICK: So, yes, there might be more of that, but Wolin, I thought, was way off base, conflating these two. But it’s the sort of thing that goes on. It’s been a balancing act, because I’ve wanted this sense of moral realism and realism about what human societies are like, without yielding the ideal element. I think maybe my most explicit statement about pluralism is in this new book [*The Communitarian Persuasion*]. There’s a short statement somewhere, where I talk about responsible pluralism. I certainly accept that we need pluralism. We need to have contending groups in a society and so on. And I think we have to recognize the importance of disagreement in society. But that doesn’t mean that there aren’t very important sources of agreement as well.

COTTERRELL: Sure.

SELZNICK: Pluralism has to be qualified by a sense of commitment to a framework within which pluralist strategies and so on can work that out.

COTTERRELL: Mainly I got this from Webb’s paper, but it sounds as though, from his interpretation of what you had written in the periodical articles at the time and so on, that sense of the need for a sort of social balance of power was apparent then.

SELZNICK: Yes.

COTTERRELL: But also the two last points are-- The first of the last points is a very clearly socialist statement: that large-scale industry is to be state controlled, but small business, agriculture, and trade associations should all remain in private hands.

SELZNICK: Yes.

COTTERRELL: So you’d moved towards a sort of mixed-economy position.

SELZNICK: Well, we were attracted-- I was attracted to the mixed economy idea on pluralist grounds. There was nothing original about that. Norman Thomas, in his later writings as a socialist leader, called for a mixed economy. He was trying to draw some lessons from that. He talked about socializing what he called “the commanding heights of the economy.” Well, I guess later on I decided I didn’t agree with that, either. You know, we shouldn’t have that kind of a general view. But yes, I think that’s a fair statement.
COTTERRELL: And then the last of these tenets is: little faith in the working class as an instrument of progress. Passions had to be filtered through organizational structures, so politics is essentially a struggle between elites, like [Joseph] Schumpeter’s view, in a way.

SELZNICK: I don’t know. Maybe Webb fairly summarized what I was writing at that time, but it certainly really didn’t represent my full view and certainly not my view as it developed, because I never accepted Schumpeter’s idea of a politics of elites, or democracy as a choice between competing elites. One would have to recognize the importance of competing elites, but democracy requires certain constraints on elites and some opportunities for new elites to be formed, and things of this kind. So I don’t really think that’s a— I wouldn’t want to dispute with Webb. Maybe it was a fair way of characterizing what I wrote at that time.

COTTERRELL: Okay.

SELZNICK: But it was not a fair characterization of my view. Probably even then, I probably wouldn’t have, if I had to really deal with the problem— The polemical arguments always push you in a certain direction, and then you think about it and say, “Well, no, I didn’t mean to go that far.”

COTTERRELL: Okay. Can we talk about Gertrude? She was very much part of what you were doing and you were very close.

SELZNICK: Would you like to see a picture of Gertrude?

COTTERRELL: Yes. Yes.

SELZNICK: This was— [showing a photograph]

COTTERRELL: Oh, yes.

SELZNICK: People called her Red. She was a redhead.

COTTERRELL: Yes. So you married her in 1939?

SELZNICK: Thirty-nine, yes.

COTTERRELL: Can you tell me a bit about her?

SELZNICK: About her?

COTTERRELL: Yes.

SELZNICK: Well, she was a very complicated person. I guess she was an extremely brilliant person and very oral, which is very paradoxical because she had a stammer, which she tried in various ways to overcome; yet she did have this capacity to talk to people and to engage in this very genuine interaction. That was true all of her life. So that when she finally began teaching at Berkeley, she had a wonderful relation, much better than I did, with some of the graduate students because she enjoyed talking to them at great length, and she was very vigorous in that way.
She had a wonderful mind. She had difficulties, I think. She was so engaged, she was so much engaged in ideas that it was really difficult for her to discipline herself enough to say, “This is what I’m doing now, and I’m going to follow this line of argument.” Instead, she would go from A to B, and B would make her think about something else, and she’d get distracted and so on, so it was kind of hard for her to finish something.

She studied philosophy. She was a student—she was working, you know, during her early years, in offices. She was an expert typist, something like that, but she went to night school. That’s how I got to know her, because she was a fellow student and sometime roommate with my sister in Newark. My sister, I think, brought her to see me when I was in the hospital with an appendix operation when I was seventeen.

She had this brilliance, this overflowing effervescence of life and thought and so on, which I think actually got in her way. It was hard for her to really get anything done. She did finally finish her-- She studied philosophy at first in Chicago.

COTTERRELL: She did an M.A. at Chicago.

SELZNICK: Yes. And then, when we were in Los Angeles, she became a graduate student in philosophy there, at UCLA, and then years later she finished her dissertation on [Sigmund] Freud, which should have been published, but it never was.

She suffered a great deal from being a woman in a man’s world. During the early years in the fifties, say, at Berkeley, there was no place for someone like her. We had a very stiff nepotism rule here, which was overturned finally in the late sixties, I guess, but it influenced people like Gertrude and several others on the campus. So they took kind of marginal jobs.

She was drawn to sociology. Gertrude was drawn to sociology partly because of me and partly also because she had an opportunity to work-- she worked at the Survey Research Center for some years, and so she got to know about survey research. She worked closely with the director there, Charles Glock. She worked on a major survey on anti-semitism in the United States, and a couple of other things like that.

Then gradually, in the sixties, after this nepotism rule had been undermined anyway, she was appointed to the faculty in sociology.

COTTERRELL: Here at Berkeley?

SELZNICK: Here at Berkeley, and that went on until she retired, and then she died shortly after that.

COTTERRELL: So you really were intellectually very close all the way through. Because at the time of Trotskyism and so on, she went through all the battles that you went through--

SELZNICK: Oh, yes. Everything.

COTTERRELL: -- all of that as well. Did you have children?

SELZNICK: One daughter, and several grandchildren.
COTTERRELL: And then she died quite young, really.

SELZNICK: She was sixty-four.

COTTERRELL: Yes.

SELZNICK: Right. But she was tired. She didn’t really want, I think, any more to do the grinding, the harder work of teaching, something like that, so she wasn’t too unhappy, I think, to retire. She always wanted to live in the country, and when we had enough money to do it, we bought a place out in the country, up in-- well, you don’t know this area, but you go up through the foothills, into the mountains. There’s a town called Placerville. We bought a place near there. We had that for about seven years. Went there a lot. And my daughter, who was something of a child of the sixties, got married and she lived there and had a couple of kids, children there and so on.

COTTERRELL: So together you shared all that political radicalism at the end of the thirties and the beginning of the forties.

SELZNICK: Oh, yes. She was one of those people-- She never had the public-- I think partly because of her stammer, she never really tried speaking in public, but she was well liked. I mean, people-- She was an extremely attractive person. People found her very appealing. And when she went to Chicago when I was in the Army, she belonged to a close circle of good friends there and that may have been the best time of her life, in a way, when she was a student at Chicago.

But she didn’t have a great capacity for maintaining these friendships. It was hard for her to nurture them, when distance interfered. She was a great person for immediate satisfactions, and it was not easy for her to defer gratification. That was a difficulty that she had.

COTTERRELL: Okay.

In terms of chronology and in terms of university chronology, we got up to Columbia, really. You went to Columbia in 1938.

SELZNICK: Part time.

COTTERRELL: Part time.

SELZNICK: I really had very little money, and I had to scrounge around to find some way of surviving and also paying the tuition. I had a very bad disappointment, or I thought it was: When I applied for admission to Columbia, I had sent along a copy of the paper I had written on the culture and personality school [in anthropology], and I got a letter from Bob Lynd, a very enthusiastic letter. “My hat’s in the air,” he said, things like that. But they weren’t about to give any money to a Jewish boy from New York for tuition, so I was admitted, but that was all. I didn’t get anything. I’m not saying it was Lynd’s fault or anybody, but that was the University.

And so I had to-- partly Gertrude helped, because she was working. I remember I once got a hundred dollars from one of my uncles; that was a great deal of money at that time. So I was there at Columbia off and on, really from ’38 to ’42.
COTTERRELL: Yes, and then you went back to finish your--

SELZNICK: In ‘42 I went to Knoxville, Tennessee, and then I went into the Army the next year.

COTTERRELL: That’s right. Yes. Yes.

SELZNICK: Forty-three.

COTTERRELL: When you went to Columbia, did you focus immediately on sociology?

SELZNICK: Yes. Yes, that was clear then. I don’t think-- I didn’t even think too much about it. I mean, it just seemed obvious that that was what I was doing-- again, not, I think, because I had majored in sociology at City College but because of all the thinking I had been doing. I might have thought about philosophy, but I don’t really remember exactly. I don’t remember having any discussions about that, but I’m sure people would certainly have discouraged me from going into philosophy.

COTTERRELL: No jobs?

SELZNICK: No jobs, especially no jobs for Jewish boys from New York.

COTTERRELL: A lot of discrimination in those days?

SELZNICK: Oh, yes, sure.

COTTERRELL: Academic jobs?

SELZNICK: Yes. There were certain departments, like philosophy and history, that were very much barred to outsiders.

COTTERRELL: So sociology seemed a better bet?

SELZNICK: Yes. Again, I don’t think I gave any serious thought to what that meant from the point of view of employment prospects. I just didn’t think about it.

COTTERRELL: You were probably still thinking in terms of social work.

SELZNICK: Well, not even that. I don’t know what I was thinking about. You have to remember, we’re talking about very idealistic young people, who were thinking about the importance of science and love and politics, and all in grandiose terms. We didn’t think too much about practical issues. But they were there. I think you kind of took it for granted. Well, maybe you would at least have a chance, something like that. But I never really thought about that much.

COTTERRELL: Yes. So what was sociology in 1938? I mean, what did you find yourself confronted with when you started?

SELZNICK: You mean at Columbia?
COTTERRELL: Yes, at Columbia, because at City College you had done a range of things, bits of social science.

SELZNICK: Well, I was very much interested in bureaucracy. I think I was more or less just open to lots of things on social theory. The Columbia department was composed mainly of-- That was before [Robert] Merton and [Paul] Lazarsfeld had come to Columbia. I think so. Certainly Merton came a little bit later. But the prominent people were Robert Maclver and Robert Lynd--

[End Tape 2A. Begin Tape 2B.]

SELZNICK: [Theodore Abel would] bring visitors to his classes, seminars. I took a couple of his things. They were not very good. And I was kind of disappointed with the faculty mostly, until Merton showed up.

COTTERRELL: Did you do classes with Maclver?

SELZNICK: Yes. But Maclver was very disappointing. My relation with MacIver was paradoxical. On the one hand, as a teacher he was very disappointing, and I was not interested in him. I mean, he would get up there and drone away, reading something from his latest book or something like that. It was not very interesting. But on the other hand, the general point of view he had, that was developed in his sociology textbook was one that I very much appreciated, and that I think did have a lot of influence on me.

COTTERRELL: I can’t remember when he published his book on community now.

SELZNICK: That’s earlier, I think. He was really political science and sociology, but he did write this book in sociology, and he had some interesting ideas about culture. They weren’t exactly original, but he was more interested in the connections between culture and expressive symbolism, things of that kind. I think he had a pretty good understanding of what society was like and so on. And he referred also to this combination of the ideal and the real.

COTTERRELL: That’s right.

SELZNICK: So I liked his ideas. Much of what I thought about was consistent with that. There were these things that influence you. I remember an article-- I have cited it several times, I think-- by this anthropologist, Edward Sapir.

COTTERRELL: Oh, yes.

SELZNICK: It was called “Culture: Genuine and Spurious”. I always liked that. When I first read that, I was reading all this anthropological stuff. I thought it really made a lot of sense. It really meant that you could identify qualitative differences in culture, and that it would make sense to talk about the attenuation of culture and things like that. That’s sort of a theme that I’ve always clung to. And that was reinforced when I was in the Army and I was in the Philippines for some time, and then I went to Japan. The contrast between the quality of culture in the Philippines and Japan was just so striking to me. That kind of thing was much reinforced.

COTTERRELL: What do you mean, “quality of culture”?
SELZNICK: Well, I meant that you could have a culture that’s shallow or one that deeply influences, at many levels, thought and action. In the Philippines you had all the mixed influences of the primordial Malayan culture; then the hundreds of years of Spanish rule and the Catholic church; and then the Americans coming in and so on. That all led to a lot of disorientation and a lack of a real core, a centrality to it.

COTTERRELL: In Japan you’ve got all those centuries of continuity.

SELZNICK: And this idea of quality of this and that— I’m going to write something about that. I have in mind to do one other, I guess probably the last thing, another small book, but more on social science. I call it *A Humanist Science*. One of the key ideas there I think is this problem of qualitative variations, and the different qualitative variations in many different phenomena, which contemporary social science tends to overlook, or not handle very well.

COTTERRELL: The difficulty is getting criteria, isn’t it? For qualitative judgments.

SELZNICK: Yes, that’s true, but we can distinguish— If we take a phenomenon like consent, you can say that sometimes consent is combined with criticism and other times it’s not, and things like that. That’s one way. This study of qualitative variations is one way that you can explore the intersection of moral and social theory, although one of the troubles, I think, is that variation in quality is a problem that seems to elude both social scientists and philosophers, in different ways.

This comes up in this piece that Gertrude and I did on culture. We talked about qualitative differences in socialization and the fact that— at least it was more current then, but it’s probably still true: It’s easy for sociologists to see differences in content, but they recoil from identifying differences in quality, because that seems to be introducing some kind of value judgment.

COTTERRELL: Yes, that’s right.

SELZNICK: Well, that’s something I want to— But anyway, I think that has its roots in all this discussion about culture. Anyway, the other people— I mentioned the three people I knew best in sociology there were MacIver and Lynd and Ted, [Theodore] Ted Abel. Then Merton. I think Merton came maybe a year after I—

COTTERRELL: Just before we go on— With Lynd, that’s a completely different kind of approach from MacIver, isn’t it?

SELZNICK: Yes, completely different.

COTTERRELL: Empirical and almost ethnographic.

SELZNICK: Yes. I didn’t get anything out of Lynd, either. I mean, he gave classes in which he would sort of read off little snippets that he got from *The New York Times* and this and that. It was not analytical at all. Even though I basically, you know, I liked him. The *Middletown* books are obviously classics—

COTTERRELL: A good read. They are a good read.

SELZNICK: Classic books. And I basically liked his hortatory little book called *Knowledge for What?*.
COTTERRELL: Yes.

SELZNICK: More policy oriented. But he was not a deep thinker. Put it that way.

COTTERRELL: Just before we talk about Merton, [Talcott] Parsons had published *The Structure of Social Action*--

SELZNICK: Yes.

COTTERRELL: --the year before you went to Columbia. Did you read that?

SELZNICK: Yes, I did. I can’t remember when I read it, but I read it then. That was quite important for me, I think. What Parsons did was give you a better sense of what more rigorous thought could do. I didn’t particularly like-- I mean, even then, I think I used to say, “Well, you know, this Structure of Social Action is a book somebody should write.”

COTTERRELL: [Laughter.]

SELZNICK: I mean, Parsons had not done it. He called it *Structure of Social Action*. Although I’ve often wondered whether Merton, who was a student of Parsons, developed some of his interests like this interest in unanticipated consequences and also his interest in the displacement of goals and bureaucracy and so on-- Whether that had something to do with thinking about the structure of social action. I never inquired about that, but he had that interest. It was not exactly Parsons’ interest.

COTTERRELL: No.

SELZNICK: It wasn’t really clear-- what Merton did-- I can’t remember exactly what year he was there, but he was there-- it must have been 1939 to ’40, something like that. And then he was gone. He was there only part of the time when I was there, because I think he had some kind of a nervous breakdown, and he was out of it. He was away for a year.

COTTERRELL: I thought Merton was your supervisor.

SELZNICK: Yes, that’s later. Yes, he was-- yes, my dissertation. He was a wonderful teacher, and he was very good, a very careful reader of things that you wrote. He would make good comments and wrote out his comments. He would correct your spelling. I mean, he was a very, very conscientious and very, very good teacher. And he was also-- The two best teachers that I had at Columbia were Bob Merton and Ernest Nagel. Merton, too, as compared to these other people I mentioned-- he also brought a lot of analytical rigor to whatever he was talking about. I can’t think that there are any really important, substantive themes or ideas that I got from Merton, because we were all thinking about the same thing at the time. But the idea that you could do sociology this way, you could write this way-- that was a positive thing.

COTTERRELL: It sounds to me as though you were always very much drawn towards the theoretical aspects of the subject.

SELZNICK: Absolutely.
COTTERRELL: So Lynd didn’t appeal because his [approach] was just straight empiricism.

SELZNICK: Right.

COTTERRELL: And it would have been nice, in a way, to know when you read Parsons’ Structure of Social Action-- I mean, it wasn’t influential straight away, was it? It came out before you went to Columbia, but that was obviously an introduction for many, many American sociologists to these ‘famous dead Europeans’, that sort of thing.

SELZNICK: Well, I really don’t-- I must have read it while I was at Columbia.

COTTERRELL: Yes, because you already mentioned Weber earlier, so you read that in German, did you?

SELZNICK: Yes, I did. That was before there was a translation. I was really quite interested in knowing more about bureaucracy. That’s what really--

COTTERRELL: Yes. And [Emile] Durkheim? It’s interesting that you had absorbed so many of Dewey’s ideas about morality embedded, in a sense, in politics.

SELZNICK: My early encounters with Durkheim were more-- had to do with-- maybe this was the sort of thing Merton would have emphasized, the development of a fairly closely reasoned theory to account for certain facts. And, of course, of suicide, especially. But not so much the general-- the general sense of Durkheim’s connection with morality I think is something I became more aware of years later.

COTTERRELL: Yes, because the material wasn’t available in translation anyway.

SELZNICK: Well, that might have been, but I think also the early discussions were, I thought, not very interesting. People talked about some of Durkheim’s slogans about social fact, and things like that that people were talking about, but that didn’t interest me.

COTTERRELL: No, that kind of straight positivism--

SELZNICK: Yes.

COTTERRELL: --wouldn’t fit with all the influences you’d absorbed.

SELZNICK: I think there’s no question that I was certainly drawn toward the theoretical dimensions of things. That probably is reflected in the fact that my interest in trying to account for the moral problems connected with politics quickly led to thinking about very broad themes that were more philosophical.

COTTERRELL: Well, there was obviously enough in sociology to hold you to it and dig you into it.

SELZNICK: Yes.

COTTERRELL: And it’s interesting what Lewis Coser wrote somewhere about the American sociological profession in the 1930s. He said, “It threatened to succumb to a simple-minded empiricism or a parochial concern with immediate problems.” So empiricism was very powerful, very much bedded
down in American sociology; but there were other things happening that you could relate to, particularly with Merton, I guess.

SELZNICK: Right.

COTTERRELL: Yes. So during this time at Columbia, you were part time. You were still very politically active. All these things were going on outside the University that we talked about earlier. And you were gradually becoming drawn into sociology. Would that be a fair way of putting it: the influences from within the University making you commit gradually more and more to it as a field, as a discipline?

SELZNICK: I don’t know. I think it was just a process, more of an institutional process. I mean, I knew that I wanted to get a Ph.D. in sociology, and there were certain things you had to do. My Columbia days are marked by this relative lack of involvement in the University. I went there every day, but just to do my own reading. There were certain favorite places I had to go, where I moved from one library to another. But people told me later on-- they reminded me I was very much of a loner. I wasn’t interested in the other graduate students. I wasn’t interested in Columbia University as an area even for-- and certainly not for any kind of political action.

I think what I felt intuitively was that I was over-organized and over-active in other contexts at the same time, and this had a kind of Shangri-La effect. I would go to the Columbia campus and there I would be, by myself.

COTTERRELL: Yes. But in 1942 you got your M.A. from Columbia.

SELZNICK: Yes. By the time ‘42 comes around, I’m already thinking about leaving. I’m thinking about a dissertation. I’m applying-- I guess I must have applied even in late ‘41 for the Social Science Research Council.

COTTERRELL: Yes. Pre-doctoral fellow.

SELZNICK: I got that in ‘42-’43, so the way these things go, I must have applied for that in ‘41, right?

COTTERRELL: Yes.

SELZNICK: And so just the sheer dynamics, I think, of-- I mean, to face up to these things that you do if you’re going to get a Ph.D. in a field, that’s going to draw you into the field. The real puzzle in my life, I think-- it’s a little hard for me to really put my finger on it-- I mean, that’s not the only puzzle, but one of the real puzzles is what was it that led me to internalize so strongly what I would call the sociological perspective? I think I did do that. And did feel very strongly the importance of that perspective, but why that should have happened, I don’t know. It must have been more by osmosis, intuitively.

COTTERRELL: Was it initially because you needed to understand bureaucracy? You’d identified bureaucracy as a problem for your politics because it stood in the way of what you’d hoped for initially. Bureaucracy is this thing which can only be understood sociologically.

SELZNICK: Yes, that might be. But in the process of trying to understand it sociologically, I was bringing to bear sociological ideas, and just where they came from, I’m not so sure.
COTTERRELL: What did you write your master’s dissertation on?

SELZNICK: That was also on bureaucracy. As a matter of fact, I think the first piece I published was called “An Approach to a Theory of Bureaucracy.” That was based on this master’s thesis that I had done. So yes, I was really interested in that then, and I guess I knew that that was what I wanted to focus on. You know, luck plays a part in all of these things. I had thought of doing a dissertation on one of the unions, and it’s probably a good thing I didn’t do that. I happened to run across something that David Lilienthal had written about the TVA, and that intrigued me, and I went on from there. That was probably the very good thing, but I knew it was partly luck that you might happen to run across--

COTTERRELL: Yes, happened to see something.

SELZNICK: Luck is a big part of life, anyway.

COTTERRELL: It sure is! [Laughter.] Yes. And then the war got in the way, 1943.

SELZNICK: Yes, the war got in the way. When I came back from Tennessee in ‘43, the middle of ‘43, I knew I was about to be drafted. Intellectually, I was against the war, but I guess I didn’t feel that strongly about it. I used to say I didn’t want to avoid the draft because I wanted to share the experience of my generation. But I don’t know. Given my penchant for rhetoric, it might not mean too much to have said that. But I certainly did feel that I should go and should accept it.

That experience of being in the Army was very important for me. Irving Kristol and I both had this experience. He went in after I did but he went to Europe. Being part of the military, the armed forces, was a very formative thing. It made me feel more American certainly.

COTTERRELL: So you were never in Europe; you were in the Far East?

SELZNICK: The Far East.

COTTERRELL: Philippines and Japan.

SELZNICK: Yes.

COTTERRELL: Japan after the war.

SELZNICK: I was in the Philippines, but it took a while before I went overseas. I was in the United States for about a year, a little more than a year, all of 1944 I was in basic training. Very strange things happen in the military. When I finished basic training in the Engineer Corps, my name came up, and I was sent to be a student at something called the Engineers School. I think a lot of things happen that way, just by chance. They need a class; they run the cards through [as] to who would have the I.Q. sufficient to go through the class, and your number comes up, and they send you. I spent a few months there.

And then, for some reason-- I don’t know why-- instead of being sent into really dangerous places, I was sent to Florida, to a camp there. I never did understand why that happened, because what I had been trained for meant I should have gone to some kind of artillery company in Europe, but somehow it didn’t happen.
Then I was there through that whole summer of ‘44. Late in ‘44, we came here to California and shipped out. We went first to New Guinea, but we didn’t even land there. We went right to Leyte Island in the Philippines.

COTTERRELL: So you were in the Philippines and then you came back to the U.S. after that?

SELZNICK: No.

COTTERRELL: Okay, this is before you went to the Philippines.

SELZNICK: Yes. I was in the U.S. until the end of ‘44, and then I was sent overseas with this unit. That’s when we went to the Philippines, early in ‘45. And the war was going on in the Philippines at that time, the Battle of Leyte Gulf and the battle for Luzon in the Philippines. I was in the Philippines through the summer of ‘45, until the surrender.

COTTERRELL: You were on the front lines? What were you actually doing?

SELZNICK: Well, no. I mean, very briefly we were attached to some unit that was clearing things up in Luzon, but mostly-- well, I started out in a unit-- that’s what I was sent overseas for. You really have to understand the military to follow this. We had a headquarters company. It wasn’t even a company; it was just a headquarters, of about a dozen young men who were supposed to become a battalion headquarters, to which would be attached various working companies for dealing with harbor craft-- you know, tugboats, barges, things of that kind.

In the Philippines, this actually came to pass. There was this company, of which we were the headquarters, this battalion, which then had the work to do in unloading Liberty ships in Manila harbor and things like that. The whole harbor was destroyed, so there was no question of piers. Everything had to be unloaded onto barges.

But actually, while I was in the Philippines, I transferred out. I found a way of-- I got out of that company, and I became an intellectual again. I became a research analyst in something called the Philippine Research and Information Section, United States Armed Forces in the Far East. The United States Armed Forces in the Far East is a designation of the military force of the United States before the war, during the American rule in the Philippines. And some political scientists had once, somehow established-- gotten the Army to establish this unit.

And so during the summer of 1945 I was basically just doing research, and that unit was a kind of source from which people were recruited to become part of the counterintelligence section in SCAP: Supreme Commander, Allied Powers, namely [General] Douglas MacArthur. And that’s what we did in Tokyo.

COTTERRELL: So that’s when you went to Japan.

SELZNICK: I was in Japan from early September, I guess, 1945 until the following spring, ‘46. I liked it there a lot.

COTTERRELL: Yes. But there must have been horrifying sights everywhere.
SELZNICK: There were horrifying sights, but you couldn’t help but be impressed by the Japanese people, despite all this terrible—and also there were still plenty of evidences of the aesthetic sensibilities of the Japanese.

Also I got to know some Japanese. I think I mentioned last night a young man [Tsurimi Shunsuke] I got to know, and his family. He had been a student of philosophy at Harvard, actually. He was interned by the United States when the war began, but then he was sent back, somehow exchanged. He was in the Japanese Army for a little while. A very intelligent, very interesting fellow. He and I went around quite a bit together. I knew his sister. His sister became a very prominent sociologist in Japan. He became a very prominent writer and journalist and things like that.

So actually—the people I knew and the work I was doing— it was all kind of interesting. I liked that.

COTTERRELL: So as well as sort of making you feel more American, as you said, this was really the first time you’d had a kind of intensive encounter with a completely different culture?

SELZNICK: Well, the first time would have been in the Philippines.

COTTERRELL: Yes, sure, the whole war period.

SELZNICK: Yes.

COTTERRELL: So that had an impact, too?

SELZNICK: I think it did. I think it did. It certainly reinforced a lot of my feelings about the nature of culture and my beliefs and ideas about that.

COTTERRELL: You mean the qualitative side of it?

SELZNICK: Yes, the qualitative side, the role of aesthetic experience and things of that kind, the importance of certain kinds of institutions.

[End of interview.]
ROGER COTTERRELL: Philip Selznick interview #2, with Roger Cotterrell on January 28th, 2002, at the Center for the Study of Law and Society [2240 Piedmont Avenue, Berkeley].

So you did your military service, and ended up in Japan, 1946.

PHILIP SELZNICK: Yes.

COTTERRELL: And came back.

SELZNICK: That’s when I actually wrote the book [TVA and the Grass Roots], because I had a lot of notes and more or less knew what I wanted to say in 1943, but then I was drafted, so I didn’t really write it until I came home, so it would be in the late spring and summer of 1946 that I was working on that. I went to the University of Minnesota in the fall of 1946.

COTTERRELL: Right. So you had your pre-doctoral fellowship 1942 to ‘43.

SELZNICK: Right.

COTTERRELL: With the Social Science Research Council.

SELZNICK: Yes.

COTTERRELL: You told me you were working on bureaucracy.

SELZNICK: Before that. The SSRC fellowship was called a field fellowship, for research in the field, to do the work on the TVA [Tennessee Valley Authority].

COTTERRELL: Oh, I see. Right.

SELZNICK: That was what that was for. That was very important for me, not just because I otherwise wouldn’t have had the money to do it but also because it gave me a lot of entrée in the TVA. They treated me very well. They gave me places to work. The imprimatur of the Social Science Research Council carried substantial weight. They figured I was just a young student anyway and couldn’t do them any harm. But they were nice to me. I mean, they treated me as somebody who was there to study the TVA. And I had fairly definite ideas in mind, not so much the general conclusions but what to look at. I decided early that I would focus on the agricultural program, so it made sense.
COTTERRELL: Before getting to that, tell me how it came about anyway. How did it come about that you did a project for the TVA?

SELZNICK: On the TVA?

COTTERRELL: Yes.

SELZNICK: I think I may have mentioned-- I can’t remember the details, but it seems to me, while I was still casting about to decide on a project, I read an article by David Lilienthal, who was at that time the chairman of the TVA, who was touting this so-called grass-roots administration. He wrote many pieces on that subject, and that was one of his big talking points. And so it struck me that this was a wonderful chance for me to study the relation between organization and ideology. You know, to just some smart-ass kid, from where I was sitting, I mean, this was clearly an ideological statement that probably needed to be punctured. I think I assumed that what we would really find is that informally, behind the scenes, TVA really dominated the other institutions. And I was wrong. But the idea that this would be a good subject for studying the connection between ideology and interests in administration, that turned out to be quite correct.

COTTERRELL: So they really welcomed you in?

SELZNICK: They welcomed me in. They were very nice to me. They fooled around with me a little bit because-- they had an interesting pattern. They had some very smart young men there, who were administrative assistants to the directors of various departments, including the director of agricultural relations, who was just, himself, kind of a down-home country boy. I mean, shrewd but not very articulate. They had a little core of administrative assistants who had been, I think, Littauer Fellows [in public administration] at Harvard [University]. I mean, these were sophisticated, smart people. They wrote the memoranda for the files, signed by these directors: the department chiefs, I should call them.

For example, in the Department of Agricultural Relations, I was assigned to one of these fellows, and I discovered at one point that he was sanitizing the files that I was being allowed to see, that he was pulling some things out. I can’t remember how I found that out, but I did. But I made an end run around him because I knew that there were duplicates of all these things in the general manager’s office, and so I had also access to the general manager’s office, and I could ask for those files, and I got them.

So on the one hand, they treated me very well. I couldn’t complain about that. And it was obvious to me that coming in without any kind of backing would have been a mistake, so the the Research Council fellowship was very good from that point of view. But, on the other hand, I think that there was a certain amount of manipulation going on. They weren’t really all that happy all the time to tell me things.

COTTERRELL: Well, one of the things you found out was that the organization was not a single organization. There were different bits of it pulling in different ways.

SELZNICK: Right. There were different-- there was a lot of internal clashes and so on.

COTTERRELL: Yes, so presumably there were people with agendas internally.

SELZNICK: Yes. And I also found that it was very important to know the history of the organization because there had been very significant changes in the leadership, and there were people around who
were critical of the administration of the TVA and who I could talk to informally and who gave me some leads and information. [I did it] the way anyone would do who was an investigative reporter. You would try to find out who were the people who were a little bit alienated and might have their own things to say or might at least give you leads.

I found out generally as a useful research thing-- I interviewed a lot of the officials, and they gave me a lot of time, but I tried as hard as I could to check up on their stories by using the files. I think the files were really very important. I think it would have been very difficult to tell this story without having access to the internal memoranda, the exchanges of communication, letters, and things I was able to see.

I spent some time also out in the field in a more direct way, since the focus of my study was the agricultural program. The key part of the agricultural program was that the TVA financed the hiring of assistant county agents in the counties, who would be working on the TVA, what they called test development program. Really to help farm practices, including the use of fertilizer and so on. I thought I ought to see how this worked out in the counties, and so I spent at least a month, maybe more, out working with a couple of the local county agents to see what they really did, and things like that.

COTTERRELL: So you went into that project thinking that you would find the TVA in control of its constituency and managing things.

SELZNICK: Right.

COTTERRELL: And what you found was a complicated process of negotiation and compromise and so on.

SELZNICK: Right, and, to a large extent, showing the compromises that were made, the internal compromises that were made and the ways at least one important constituency really got control of part of the TVA. I had the idea at one point, and I decided not to do it, of writing an article for a non-scholarly publication, like Harper’s or something like that, that might be called something provocative, like “A Right Wing in the TVA”.

COTTERRELL: [Chuckles.]

SELZNICK: I didn’t do it because I thought more about it, and I realized that’s not the business I was in, and that I wasn’t really interested in entering a controversy about the TVA. I was a theorist really. Nor really was I interested in attacking the TVA. I mean, obviously the book was read as an attack on TVA, but I didn’t mean it to be that. I think I summarized-- I wrote a preface. A Torchbook edition of that book came out somewhere. I forget.

COTTERRELL: Yes, in the 1960s, wasn’t it?

SELZNICK: Yes. And I did a preface for that, and I think one of the things I said there was that what happened was that the TVA gave-- The problem was not that the TVA made compromises but that it gave over a piece of the organization to this constituency, and that had consequences for other programs, because that constituency could then have a legitimate role in fighting for its own ideological aims. So I think that was something I didn’t say quite in the book, but I thought about it later.
One of the things that people liked about the book was this idea I developed about cooptation. That seemed like a natural science phenomenon. And it was. But if you look at the reprise I did of the TVA experience in my later book *The Moral Commonwealth*, you’ll see that the word “cooptation” does not appear. I rather speak of-- I use that as an example of what I called “the perils of responsiveness.” And so what am I doing there? I’m trying to move away from presenting this analysis as an exercise in value-free social science, to trying to emphasize the lessons to be learned from this experience for a value-relevant or value-impregnated kind of social science, an organizational theory for which a concept like responsiveness would be—

**COTTERRELL:** [Interrupts.] Right. That’s a very interesting change, because you could say that cooptation idea is very functional. It’s structural-functional. In a way, it’s the way things are held in control.

**SELZNICK:** That’s right.

**COTTERRELL:** And one of the reasons the book [*TVA and the Grass Roots*] was-- well, the criticisms that the book received-- were that the structural-functional perspective in a way over-emphasizes that control, rather than the conflicts going on within it.

**SELZNICK:** Right. But, you know, somewhere I wrote something about dynamic functionalism. I tended to associate functionalism, when that was a serious topic, with [Karl] Marx and [Sigmund] Freud and not with the anthropological functionalists, whereas I think the functional analysis that was most prevalent, say, in the fifties and so on really had its derivation from the anthropological studies of the--

**COTTERRELL:** [Interrupts.] [Bronislaw] Malinowski, and so on.

**SELZNICK:** Yes, Malinowski and so on. And that made a big difference, because if you think about Marx and Freud, of course, there’s a lot of functional analysis; there’s a lot of identification of systems; but the notion-- I called it dynamic functionalism, because it has to do with the ways in which-- you’re identifying a system in part by appreciating its contradictions. The contradictions produce a dynamism that results in a reconstruction of the system. And that’s very different.

So to me, the idea of opposing functionalism and conflict theory didn’t make sense. I understand what people were saying when they were talking about the more anthropological notion, but people overlook-- not everybody. There were a couple of people who wrote about functionalism who understood this, I think. Pierre Van Den Berghe, I think he wrote something that got that point. But that was mainly the way I looked at it, too.

I believe even to this day that certain kinds of functional analysis are really important. I’ve mentioned this in discussing-- one of the arguments that I make in this new book about democracy. It’s very important to ask yourself, “What does democracy as a system require?” and “What is the role of campaigns, of money in politics and so on?”

Unless you have a theory of the nature of the system and what it requires and what might distort the system and so on, you’re not going to be able to deal with it effectively; that is, analytically-- or even come up with good practical conclusions.
COTTERRELL: The key word is “system”, isn’t it?

SELZNICK: Yes.

COTTERRELL: If you’re studying formal organizations--

SELZNICK: They are social systems.

COTTERRELL: But in a way, once you’ve introduced the term “systems”, you are really thinking structurally and in terms of functional relations, yes.

SELZNICK: Anyway, that sort of thing was going on.

COTTERRELL: Yes, and it was only a few years after that that Kingsley Davis said this is the way sociology is done [“The Myth of Functional Analysis…” (1959) 24 American Sociological Review 757.]

SELZNICK: Yes.

COTTERRELL: So in a way, you were surprised by some of the things you found.

SELZNICK: I was delighted. I wasn’t surprised.

COTTERRELL: You were delighted.

SELZNICK: Yes. I mean, it was nice to have an argument. [Chuckles.]

COTTERRELL: Yes. But I wondered exactly [how] what you found with the TVA modified what you’d come to the TVA with. You’d come to the TVA with Michels’ “iron law of oligarchy” and so on, and I lot of people read the book as saying, well, effectively it confirms Michels. [Alvin] Gouldner, for example.

SELZNICK: Well, that’s true, except most people did not really take the point of view that I did - I think, a somewhat more balanced view - because even in those early days, I said something like this: this is what will happen. Actually, it was in an article I did about Michels. I said, well, the logic of this is-- Well, in the first place, I said you can’t say “Who says organization says oligarchy”. That’s nonsense. I mean, empirically. It doesn’t always happen. What you’ve got to say is that this tendency to create a self-perpetuating leadership and similar things is something that will happen if you allow organizations to follow the line of least resistance.

So I was saying what you learn from all this is something about the problematics of social life, the kinds of dangers that arise that we have to be ready to deal with. You have to understand what can take place. I didn’t really mean to communicate what Al Gouldner called a “metaphysical pathos”. I thought that was silly. I could understand why he might come to that conclusion, but I was not really saying that democracy was impossible or anything like that. I wasn’t repeating Michels. Michels said, “The waves of history break ever on the same shoals” and so on and so forth.
I wasn’t saying that; I was just saying that these are the problems of life, of organization, and we have to be prepared to meet them, and that shouldn’t keep us from seeing the positive side of things. I was willing to see the positive side of the TVA.

Maybe I should mention one other thing about TVA, which surprised me a little bit. Of course, I was still very much of a liberal, maybe even a little bit of a radical in 1943, but I mentioned in passing, in the TVA study, that one of the problems with the TVA was that even though it was this big New Deal agency, it followed the southern patterns with regard to race relations. It certainly didn’t reach out to the poorer farmers and certainly wasn’t interested in the black population. Some people found that one of the most interesting things I had to say about it, because they could see the contrast with what the New Deal was supposed to be.

COTTERRELL: Yes.

SELZNICK: I must say I said it, and that was a fact, but I didn’t give it a lot of weight. I mean, it wasn’t salient in my mind. I took that for granted, of course.

COTTERRELL: Yes, that’s right, once you had established that there would be an elite, controlling things.

SELZNICK: I went to a meeting, I don’t know, ten years or so ago in which—maybe it was ‘85; maybe it was more than ten years ago. They had a fiftieth anniversary meeting about the TVA, and there was a historian there, a well-known historian. He got up and said—well, he mentioned my book several times, and how that had shaken him up about the New Deal. And I must say I didn’t really mean for that to happen. I was doing my little scholarly thing, and I didn’t have a big agenda about it. I didn’t have a big philosophical agenda in the sense of trying to suggest that we have to be pessimistic about organizations; nor was I saying that this meant that the TVA was a failure, even though certainly it could be read that way. But I didn’t really have that in mind.

Years later in my class, I used to write in the board something like— I did it once or twice maybe: “Heuristic standpoints are not innocent.” That is, the fact that you do something because you are simply trying to create a model or make an analytical point or something like that doesn’t mean you won’t be taken as something much more significant.

COTTERRELL: Even if you’re just using ideal types. They are never innocent.

SELZNICK: You have to be careful about—

COTTERRELL: --which one do you choose.

SELZNICK: You have to be careful about that.

COTTERRELL: But I think this balance between pessimism and optimism is really very important, and in a way, I think it carries through to a lot of what you’ve done after the TVA thing.

SELZNICK: Yes.
COTTERRELL: Because the way the book is read-- It can obviously be read in many different ways: Gouldner read it a certain way, as Michels, as pessimism, and so on. And in a way, the story you tell in that book, there is a very pessimistic cast to it--

SELZNICK: Yes.

COTTERRELL: --because the Agricultural Relations Department actually got sort of control of a large part of what the TVA did, and that meant certain things were impossible, certain basic social goals that it was set up to achieve could not really be achieved.

SELZNICK: Yes, failed to achieve, but what happened was that the basic goals changed. David Lilienthal was the representative of the New Deal, and he perceived the TVA as an electric power agency. You know, it did do that but, in doing it, it sloughed off some of these other goals. Lilienthal was absorbed by the whole question of the struggle between private and public power, electric power. I guess what he, and I suppose implicitly, [President Franklin] Roosevelt accepted in the end was this is the way it is. This is the real fight, and other things have to go by the board, whereas the first chairman of the TVA, Arthur E. Morgan, didn’t look at it that way at all. He was much more interested in the social goals, more interested in community, more interested in the quality of rural life, much more concerned with the moral issues. He might have made some compromises, but not the kind of compromises that Lilienthal was willing to make. So there were all these complications.

But I agree with you that it’s very hard. I don’t know exactly why, in my own thinking, this has always remained so important, to try to be optimistic and pessimistic at the same time, but it’s been so. I remember in the early days, when we were first talking about organizations, one of the key ideas was the connection between or the distinction between formal and informal structure. There were quite a few sociologists who would like to go around saying, “The formal structure doesn’t count; it’s the informal structure that counts.” Well, that was baloney, and I said so at the time.

I mean, it’s very important what kind of formal structure was created. In a sense, that led you to a certain optimism, that you could, by creating an appropriate formal structure, make a difference for the quality of life of the organization and its effectiveness and so on. But you would have to do that by relating it to the informal structure and creating the infrastructure that’s necessary to sustain the formal structure and so on.

I thought that way from the very beginning. Later, I talked about the “operative system” as a combination of the formal and the informal. But its one of these things that has also gone by the board. I mean, nobody pays any attention to that anymore, I think, I would say. But for the first few years of sociological discussion of this, that was a major thing. But it showed a certain unwillingness to hold things in tension and see both sides of what was going on.

I hate to say this, but it seemed to me to be a little childish.

COTTERRELL: Yes, to separate them.

SELZNICK: Yes, right. And I think I felt-- now, maybe I have more of an impulse toward reconciliation, and maybe it reflects a little bit of a Hegelian strand in my thinking, that I like to see how opposites can connect.
COTTERRELL: Yes. Thesis and antithesis.

SELZNICK: You know, getting back to Morris Cohen, there was an idea he had that he liked very much. He used to repeat it quite a bit, and he tried to make it kind of central, but I think he didn’t do really what needed to be done with it. He talked about the “principle of polarity”. By that, he meant that opposites involve each other and that you can’t have one without the other; they go together, kind of a yin-yang approach to the philosophy of social life. I don’t think anybody has ever picked that up, but he had that. But that was pretty much my attitude, that you had to see how these things worked together. That’s why in my later writings on positivism and natural law, I tried to offer some strategy for reconciling the two views, rather than arguing only for one rather than the other and being completely polemical. I mean each has a certain truth, and if you change the focus a bit as to what you’re interested in, you’re going to emphasize one rather than the other.

COTTERRELL: Yes. And it’s hard for people to grasp the notion that polarities can be held, that two polar positions can be simultaneously held, because for a lot of people it sort of collapses into paradox. It looks like paradox, and then that’s one of the postmodern things, paradox--

SELZNICK: I know, but if you think about it concretely, it’s true. You can say discipline and freedom. They seem to be opposed, but of course we know that all kinds of freedoms are impossible without the disciplines that support them.

[End Tape 3A. Begin Tape 3B]

COTTERRELL: --Yes, so even that traces back to Dewey.

SELZNICK: Yes. It was certainly reinforced by Dewey. But I think it would have to be-- Dewey said many times, in different ways, that you have to overcome this disposition to create these dualisms when in fact they’re pernicious because they don’t really permit you to analyze things constructively. He also had another idea which seemed to me important, that you avoid any doctrine that blocks inquiry. If you say, “Well, it has to be such; that’s the way it is,” then there’s nothing more to be said, whereas in fact what you want to do is to be able to push inquiry further on to say, “There might be some conditions under which these things are related, and maybe we can examine those” and so on and so forth.

But that’s also part of a larger interest in dialogue and communication. Trying to say, “Well, in what context is it right to think about some things rather than others?” Like, as I was saying earlier today, the notion that you counterpose self-interest and communities seems to be quite wrong, and wrong in the most obvious ways. I mean, almost anybody who knows anything about organizing community life, whether it’s a religious parish, a center like this or what have you, the idea that you can do without taking account of the even rather immediate short-run self-interest of people is crazy. You do it all the time. You try to make people happy and comfortable, and you want them to get direct satisfactions from what they’re doing.

But there’s something about our ways of thinking that make us stupid: stupid in the sense of unable to see what’s before our eyes, what is fairly obvious.

COTTERRELL: Yes. It really does go to the root of what social science is, doesn’t it? Because the idea that you can hold two seemingly opposite things side by side and not be worried about that, but play with their relationship-- I mean, basically that’s terribly worrying to most social scientists, isn’t it? Because
they’re either trying to adopt a sort of positivist position, where the exceptions are fitted within the rules somehow; you might have an iron law of oligarchy, but there are circumstances which you can enumerate perhaps, in which you can escape the iron law of oligarchy. Or, on the other hand, you take an interpretive approach. You’re trying to understand social reality in an interpretive way, and you’re trying to get “the” picture, and in some way interpret the picture.

But you’re saying neither of those is right.

SELZNICK: Yes.

COTTERRELL: You’ve got to keep an interplay all the time. Presumably, that’s the philosophy, isn’t it, which is at the base of your social science?

SELZNICK: I think that’s part of the philosophy. I think one of the things I’ve learned and emphasize in recent years is that-- the thing I find that reflects the fact that I am a committed social scientist, despite all those interests that I’ve had in moral philosophy and so on for a long time, is that I am always interested in variation. I want to know not is there consent but what kinds of consent are there, and what difference do they make in what context.

I remember somebody once wrote something about “the lesson of sociology is that people conform.” No! The lesson of sociology is that conformity is an important phenomenon and there are different kinds of conformity, and some kinds of conformity lead in one direction rather than others.

Or take [Michel] Foucault. I mean, as brilliant as he was, he fell into the same trap. It wasn’t exactly a trap for him because he was really trying to influence how people think, but he used the word “disciplines,” “the disciplines.” Well, he wasn’t distinguishing among kinds of disciplines: the kinds that are supportive of human life and that make people more competent than they would be otherwise, as against the kind of disciplines that are oppressive. You have to sort them out and say which is which.

He didn’t want to do that. He wanted to say that discipline is necessarily oppressive. If you say it’s necessarily so, then you’re stuck. It’s a conversation stopper. It’s a little bit like the Marxist idea of talking about “the bourgeois science” or whatever. That’s not an analysis, it’s a bill of attainder.

COTTERRELL: Yes.

SELZNICK: You say if you can identify it as bourgeois, you know it’s bad, and that’s it. You don’t have to say anything more about it.

COTTERRELL: Okay. So while you were doing the work on the TVA, Robert Merton was your supervisor. Is that right?

SELZNICK: Yes, he was.

COTTERRELL: You told me a bit about Merton earlier, but tell me about him as a supervisor and the relationship you had while you were doing that work.

SELZNICK: I don’t think we had a lot of relationship. I can’t remember, but he must have, I’m sure he made comments on my draft when I wrote it, because he was very good at that, and he would inevitably--
I just can’t remember it too well. I don’t think he had much to do with the framework or the argument. I did use the term “unanticipated consequences.” When I first brought out the book, I was still so involved in social science jargon that I allowed the table of contents to get over-heavy in things like that. I changed it later.

But I remember one thing: in my first outline, I used a little different phrase, a phrase that really came out of my Marxist background. I talked about “objective consequences,” not unintended consequences. And then, I think partly because I really was—kind of [out] of a respect for Merton, because I knew he had done that—I softened it to unanticipated consequences.

COTTERRELL: So it was a kind of close relative of latent functions?

SELZNICK: Yes, right. But in the Marxist circles that I lived in for a couple of years, the phrase “objective consequences” was very, very, very current. It also meant consequences are objective in the sense that you didn’t intend them, but they flowed from the logic of whatever you were doing, so that people would say—when they had had an argument with somebody, when they would say something, they would say, “Objectively, you’re a class enemy” or “You’re serving the purposes of the class enemy,” things like that.

I don’t think it would be truthful to say that Bob had any particular influence on the argument. I’m sure that he helped a lot with clarifying various bits and pieces here and there.

I had one funny experience. Lynd was also on my committee. I sent him the first chapter, which was really kind of a restatement of the ideology, the grass-roots ideology, and he got very angry with me because he thought that this is something I was buying. He was much more political than anybody. And I had to explain to him, “No, I’m not saying this is what’s true; I’m saying that this is what the ideology is.” So runs the official ideology. That’s the doctrine. That’s what I said. The whole chapter was on doctrine.

The other interesting thing was that I had a member, an outside member of my committee, somebody at Columbia-- I can’t recall his name right now-- who had close connections with the extension service of the Department of Agriculture, so he knew a lot about it. And he complained about my treatment of the extension service in the book. That had the effect [that] I only went back and strengthened what I had to say about that.

COTTERRELL: [Chuckles.]

SELZNICK: But it was good to have that kind of comment. Otherwise, I think Bob felt— that he liked it a lot, and he was very supportive. He was, of course, extremely supportive of me in those crucial years when I was on the job market and things like that. He recommended me for all kinds of things, including a Guggenheim fellowship, years before I took it.

COTTERRELL: Earlier on, you were talking about functionalism within Freudianism and within Marxism, and a lot of the people you were involved with in radical politics became sociologists, became social scientists. And I wondered whether, in a way, it was easy— not easy, but it was relatively straightforward— to move from the implicit functionalism in Marxism to sociological functionalism. Just a kind of different version, in a way?
SELZNICK: I think yes. I think for more theoretically-oriented people, it was more like that. Not everybody was like that. I think some of the people were simply continuing in sociology, using sociological language and, to some extent, techniques to continue their work on social commentary. I mean, there was sort of that kind of continuity. Their Marxist days were days in which they were analyzing society. Well, they wanted to continue analyzing society, but they dropped the Marxism.

But I think you’re right. There was also the other. There is a connection between the intellectual power of the model and the attempt to find something similar in sociology. I’m not sure if that would work with someone like Parsons.

COTTERRELL: Exactly what I was thinking. Yes, Parsons doesn’t fit at all.

SELZNICK: He had a lot of interest in economics, and he knew a lot about that. He was very, very able. I thought that *The Structure of Social Action* was a wonderful book, even though it wasn’t about social action in any serious way. But I thought he fell off the cliff in his later work on social systems and so on.

COTTERRELL: It’s a very hard book *[The Social System]*, isn’t it?

SELZNICK: It didn’t seem to me to go anywhere or say anything very much. He did have this idea that he and-- you know the work that was done by Parsons and Shils and I think somebody else?

COTTERRELL: [Robert] Bales? On groups?

SELZNICK: No, on theory of action, on-- what did they call them?

COTTERRELL: Pattern variables?

SELZNICK: Pattern variables, yes. I thought a lot of that made sense and that it helped to see what was going on in sociology.

COTTERRELL: Did you meet Parsons around that time?

SELZNICK: Yes, he was at Berkeley for a while. I didn’t have close contact with Parsons. One thing I did, I think it was in the sixties, was to write a review which was very hostile, in its tone, anyway. This was a review for *American Sociological Review* of a book edited by Max Black, I think, essays on Parsons. And I used that occasion to say I didn’t think there was any there there. I don’t think he liked that.

COTTERRELL: Okay. So in the meantime, so to speak, while the work on TVA was going on, you’d started your academic career.

SELZNICK: Right.

COTTERRELL: You had a job as instructor in sociology at Minnesota.

SELZNICK: That’s right.
COTTERRELL: In ’46 to ’7.

SELZNICK: Yes.

COTTERRELL: Was that just the job that came up?

SELZNICK: Well, more or less, yes. I had written a bunch of letters when I came out of the Army, hoping to get an appointment for the following year and had, I think, a couple of possibilities. One of them was Minnesota. That seemed appealing.

COTTERRELL: Which city is that?

SELZNICK: Minneapolis.

COTTERRELL: Yes.

SELZNICK: My wife was pregnant then, too. We had a baby in January of 1947. And I think we had some notion that really we’d rather be off by ourselves somewhere, rather than closer to her parents in New Jersey. But I’m not sure that I really-- I can’t remember exactly what happened. But those letters were still active. I think I was getting support, especially from Merton. The following year, or within not too many months after I got to Minnesota, I got this invitation to come to UCLA.

COTTERRELL: Yes. Just before we talk about that, what was sociology like at Minnesota?

SELZNICK: It was sort of old fashioned. Actually, I wasn’t that close to the sociology people. I mean, the sociology people included some rural sociology people, a couple. Nobody I would think of as really outstanding there. But it was all right. But actually, the people I was closest to were in the Political Science Department in Minnesota. And I knew them quite well.

COTTERRELL: What were you teaching in that first year?

SELZNICK: What was I teaching?

COTTERRELL: Yes.

SELZNICK: Introductory sociology, something like that.

COTTERRELL: So you moved very quickly then to UCLA?

SELZNICK: Yes. I got this offer from UCLA. It was more money, for one thing. And I learned that-- although Minnesota was willing to match that, I didn’t like that. I was a little offended by the idea that you had to get offers from other institutions to get that.

And anyway-- I liked Minnesota in many ways, but it was just too cold for me. I got asthmatic when the temperature dropped to zero, and I figured I’d better get out of there, so I did and we went in 1947. We went to California. We were on the train with a baby.

COTTERRELL: So that was your first settling in California at that time.
SELZNICK:  Yes. It wasn’t my first visit to California because I had been there when I was in the Army.

COTTERRELL:  What was the Sociology Department like at UCLA?

SELZNICK:  It was very interesting, actually, because it had a joint department of anthropology and sociology. The anthropologists were more senior people. There were quite good people, I think. Sociology was only just beginning to get going. Leonard Broom was there, and I can’t remember, just a couple of other people in sociology. There was an older man who had just retired - I never got to know him, but I think there was some very big argument between him and Leonard - a fellow named [Constantine] Panunzio. I think he was one of the first sociologists on the UCLA campus. It could be that he was more interested in a European-type sociology, and Leonard was more interested in sort of up-to-date, American sociology. I never did find out.

COTTERRELL:  Was there a real tension in sociology at that time between the theorists, the people interested in imported European theory in the main, and then, on the other hand, the empiricists?

SELZNICK:  There may have been in some places. I wasn’t really aware of it. My experience has been that people respected both. At some level, people expected graduate students to know about the history of sociology and the major figures and so on, but there was an emergent distinction made between the history of theory or the history of sociology, and sociological theory. And the latter, people weren’t too clear about, but I think when Bob Merton came along — I think Parsons and Merton and Kingsley Davis — these people were taken to represent the sort of contemporary sociological theory and were not necessarily tied to exegesis of the writings of the classic sociologists.

One of the things that does seem to have dropped out by then is the influence of some of the early American sociologists, like [Edward] Ross.

COTTERRELL:  Yes. Albion Small and people like that?

SELZNICK:  Small. People like that. Although I think George Herbert Mead-- I think at least lip service was given to him as an important person. And also the urban studies of Chicago by [Robert] Park and company. They were, I think, highly respected as good sociologists.

COTTERRELL:  Still a great read today, a lot of those [Chicago] books.

SELZNICK:  Yes, certainly.

COTTERRELL:  What were the students like? I mean, what sort of expectations did sociology students have?

SELZNICK:  Well, you’ve got to remember the timing. This was after the war [World War II], and quite a few students were there on the G.I. Bill of Rights. You know, everything looked open. There were going to be lots of opportunities. The graduate students were very good. They were older. They had been in the Army. One of them was Sheldon Messinger. And then there was Wendell Bell. Ultimately he went to Yale [University]. Wendie had been, I don’t know, a captain or something in the military.
Then there was young John Kitsuse. These were all very good people. I think there was a whole cohort of people who were older and more serious, and I guess they really expected, and they had every reason to expect that there would be-- that was a good time for people to go into sociology. I probably benefited from that myself, too, because that was a time of many institutions trying to build sociology departments. It was a time of great optimism about social science. Very soon came along the Ford Foundation and behavioral sciences stuff. People were thinking about breakthroughs and things like that.

That certainly was true at Rand [Corporation] when I was there. It hasn’t happened.

COTTERRELL: So the break with the social work tradition was a clear break?

SELZNICK: Oh, yes. That was definitely gone, yes.

COTTERRELL: Yes.

SELZNICK: Yes. Although I think in Minnesota there was more connection. I have a vague memory that there was more connection between sociology and social work in the Minnesota department.

COTTERRELL: But generally the sociology departments had been trying to sort of squeeze out the social administration types.

SELZNICK: Yes.

COTTERRELL: To make the discipline strong and pure, and so on.

SELZNICK: Yes. Right.

COTTERRELL: Right. In 1948 you published “Foundations of the Theory of Organization” in the American Sociological Review. This was sort of pulling together things that had come out of TVA and the Grass Roots?

SELZNICK: Yes. Some of that was based on or maybe even drew on some of the analytical discussion, I think, that was in the TVA [study] or that I had put in originally and [then] kept out. I forget what now. But yes, that certainly did reflect an effort to be systematic about a foundational sociological approach to it. I hadn’t yet come up with the significance of institutions - institutionalization in that - but I did talk about structural-functional analysis, things like that.

COTTERRELL: And then the Rand Corporation, as you said, became a base. I think that’s 1948 to ’52, four years, something like that?

SELZNICK: Yes, something like that.

COTTERRELL: And you were a research associate in the social science division.

SELZNICK: Yes.

COTTERRELL: Again, being a foreigner, I’m not very clear at all about the history of the Rand Corporation, but I think it was a military kind of set up originally.
SELZNICK: Yes. Originally, actually, even when I had first contact with it, it was still part of Douglas Aircraft Company. Rand began, really, as a division of the Douglas Aircraft Company, which had a contract with the Air Force to do, I don’t know, advanced thinking. But I think that changed rather quickly, and the Rand Corporation was formed— it must have been early on, 1948 or so— from that.

COTTERRELL: Advanced thinking about what?

SELZNICK: Strategy, new scientific developments, things like that. I don’t think they had any very clear idea of what they were going to think about [both laugh], but they were going to get some bright people together and they were going to think about...

I don’t remember all of it now, but there were several divisions at Rand, including a very strong mathematics division. When I was connected with Rand, the mathematics division was almost wholly given over to game theory. They had all the game theory specialists there, and they were working on various problems, including problems of negotiation and things like that. There was this hope that somehow the game theory would be a major breakthrough.

The social science division was somewhat different. It actually emerged from the psychological warfare groupings that were formed during the war, which Harold Lasswell was involved in. The people in the social science division at Rand had all, or almost all been connected with either the Office of War Information or the Office of Strategic Services, one of those outfits that was interested in understanding the enemy and things of that kind.

They were very good people, wonderful people. Hans was a very, very smart fellow, Hans Speier, and they had this very strange— I hardly even saw him because he was mostly in Paris— a fellow named Nathan Leites. He did a book called The Operational Code of the Politburo—which was one thing they were trying to understand was— you know, this was the cold war days. They were trying to understand the Soviet Union and what they might be likely to do or not. I don’t think they ever did get around to understanding it, but they tried. So he wrote a big book called The Operational Code of the Politburo, analyzing, trying to get at the ways the Politburo thinks.

And then they had a wonderful man— you probably haven’t heard of him— called Paul Kecskemeti.

COTTERRELL: Oh, just about. Another name.

SELZNICK: Paul was a Hungarian, an extremely smart fellow. He knew just about everything. Sort of a small, slightly hunched-back, bald man. Sort of odd-looking fellow, but just fascinating. He was so smart. They did different levels of analysis, some of which would be somewhat operational in the sense of things you do that could be something that people in the Pentagon would pay attention to.

COTTERRELL: Yes, anything of strategic relevance.

SELZNICK: On the other hand, they did some very general things, like they were carrying on for a long time something they called the study of elites. They were doing a lot of work on memoirs and so on of Americans, American statesmen and so on, the way they were thinking, trying to identify certain patterns, including always trying to divide the world between the children of light and the children of darkness.

[End of Tape 3B; Begin Tape 4A.]
COTTERRELL:  [About Harold Lasswell,] I think of him as a quite amazing, fascinating character, but with a slightly murky, shadowy side. Into all sorts of things.

SELZNICK:  I think so. Yes. He was really interested in power, too. He had written these things on personality and world politics and things like that. I think he had a lot of interest in trying to change the American Political Science Association into a power bloc.

COTTERRELL:  And then there was the great partnership with Myres McDougal.

SELZNICK:  Yes, the policy sciences bit. He was very strange because he talked this jargon. And conversation with him would be, well, you would say something and he would translate it into his jargon, but it didn’t advance anything. I mean, that’s the way it went. [laughs.]

COTTERRELL:  And as far as you were concerned, you were busy working on the Communist Party. The bolsheviks.

SELZNICK:  Yes, I got into-- A friend of mine, the philosopher, Abraham Kaplan, is the one who brought me into the Rand group. I was thinking of a project, and the one that I thought I could say something about was the communist type of organization. I wrote that book, The Organizational Weapon, and I had a lot of opportunities, through Rand, to inspect various documents. I went to Washington several times.

COTTERRELL:  I haven’t read this book, but it seems, from what I can gather, that there you were very much concerned with the ability of the organization to control its membership.

SELZNICK:  I was still very interested in the social system. The book really tries to identify the elements, the distinctive competence, as I later called it, of this type of organization, an organization that had this special competence of turning members into agents. And then I analyzed various aspects of their strategies and so on.

There was an odd thing in that book, if you haven’t looked at it, that some people have been interested in, and that was a chapter I did that I called-- I was using this jargon, “The Vulnerability of Institutional Targets,” I think is what it says. I think I published an article in the AJS [American Journal of Sociology] on institutional vulnerability of mass society, which was more or less the same thing.

That kind of developed into trying to explicate the mass society theory and its culture, trying to provide a context within which it seemed like organizations like this could be effective.

COTTERRELL:  Particularly because of the lack of a kind of a vibrant civic society, in a way.

SELZNICK:  Yes, right, right. It gave me an opportunity to explicate this idea of mass-- I still think it’s a good idea, and I do use it from time to time.

COTTERRELL:  Would you say that this book marked an important evolution in your thinking about leadership?

SELZNICK:  Yes, it does. As a matter of fact, you could say-- I think I said this at some point in my little book on leadership, that what I was trying to do was to make sense of what I had written in the
previous two books. In other words, you might say, what was the true, implicit framework? And that the ideas like distinctive competence, character, and so on-- all these were notions I later developed but which were implicit in these analyses.

COTTERRELL: Yes.

SELZNICK: So yes, I think *The Organizational Weapon*-- it had that dual character. On the one hand, it was a product of the cold war and a contribution, in a narrow sense, to that. But it was, again, so analytical that I don’t think it had any particular role to play. Here and there I saw echoes that people were interested in it because of what it had to say about communism, but what I really cared about was the contribution that was made to organizational theory and that’s really the kind of thing I was focusing on. What sort of beast is this and what can we learn from it?

COTTERRELL: Yes.

SELZNICK: Even though I did speak in terms of the immediate significance of communism. Here again, you know, I ended that book with a statement saying that these organizational issues should not be overstated. What matters is not the organizational stratagems of the communists but the larger issues, and that in the long run, this has only a tactical significance. The big issues really have to do with the way human needs are met and so on and so forth. I wasn’t allowing myself to get sucked into the idea that this was really the central concern, even though I was interested in it and it was a way, for me, of a kind of closure, you might say, of what I knew about bolshevism.

COTTERRELL: But the organizational requirements that you picked out in that book for the Bolshevik Party are so different from the organizational requirements of organizations in a democratic society that it’s a bit hard, second hand, to make the connection. For example, the need to engage in continuous political warfare to keep members loyal and so on. Creating a sense of turbulence--

SELZNICK: Yes.

COTTERRELL: --to keep everybody pointing in the same direction.

SELZNICK: Well, of course, there are lots of organizations that do that. They do things to keep them busy, or they say-- I’ll give you something I heard recently about the Mormons. Somebody was saying about the young Mormons who were sent out as missionaries, the important influence is not so much the converts that they get, but the way this activity influences the missionaries themselves. These young people, having been involved for two years in this kind of activity, are now, themselves, ineradicably fixed as Mormons. So there is that dynamic that all organizations have to take into account-- what I called at one point the internal relevance of apparently external activity.

COTTERRELL: Yes, yes. And the need to protect the movement from the danger of liquidation, dissolution of distinctions between itself and other groups. That’s generalizable as well, isn’t it?

SELZNICK: I think it’s generalizable. You find various stratagems for that. You have to maintain your own identity in some way, and in some cases the threat to identity is very strong.

COTTERRELL: This is all going on at the time of the cold war, as you said, and [Sen. Joseph] McCarthy and so on, and Rand. What did you think about all of that?
SELZNICK: Well, I guess you could say that at one level I was a participant, in a minor way, in the cold war.

COTTERRELL: Yes, through Rand.

SELZNICK: Not just through Rand but other activities. I had some association, somewhat marginal, through the American Committee for Cultural Freedom, and also when I was in Los Angeles, while I was writing that book, some friends and I organized a kind of educational venture. We called it a school. We called it The Liberal Center. We gave some classes on communism and liberalism and so on, because we thought that particularly in the Hollywood setting, in Los Angeles, there had been a lot of influence by the communists and their fellow travelers and that some kind of education would be--.

That went on for a couple of years and took a lot of work. The kind of anti-communism I was interested in developing was more along the lines of Arthur Schlesinger, a liberal anti-communism, not conservative anti-communism.

COTTERRELL: You wanted to fight the ideas rather than fighting the people?

SELZNICK: Yes, that’s true too, but also not-- well, you might sometimes have to fight the people if they were-- well, like in Minnesota. One of the things I was involved in when I was in Minnesota was the early days—there was an organization called the Americans for Democratic Action. Hubert Humphrey was associated with that. Humphrey was mayor of Minneapolis at that time. One of the big fights they had was an internal struggle within what was then the Democratic Farmer Labor Federation, which had had very strong communist influence. And so fighting the communists was very important, in those contexts. And I was involved in that to some extent.

So yes, I was in part involved with the cold war, but I think it was very important to me to avoid allowing that cold war to move me in the direction of American political conservatism.

COTTERRELL: Did you still feel you were on the left at that time?

SELZNICK: By 1948-- as I said in that piece I wrote about Irving Kristol-- I said [that] by 1948 I had become a [Harry S.] Truman Democrat. I voted for Truman in ’48, and I was very much-- Yes, I would say I thought of myself as a liberal, American liberal, connected with liberal causes and liberal organizations and things like that. No, I wouldn’t have said that I was on the left except, unless somebody used the term “left” in a very broad sense.

COTTERRELL: But as an American liberal, you would have been worried about McCarthy.

SELZNICK: Certainly worried about McCarthy. There was no question. The difference between me and Irving was that I didn’t agree with Irving when-- he wrote an article in Commentary magazine that became kind of notorious because he defended McCarthy. He said-- I don’t know, I forget-- “The American people know about McCarthy, they know that he is against communism; about American liberals, they don’t know.” Something like that. Well, that was off the wall. He shouldn’t have said that. But I was more in line with people like Arthur Schlesinger. As a matter of fact, in those classes I talked about, we used Arthur Schlesinger’s book - it was called The Vital Center — as a kind of textbook, and he’s very strongly anti-communist, but while maintaining liberal ideals and criticizing people like McCarthy and so on.
COTTERRELL: It must have been hard to maintain that position at that time. There was a lot of pressure on liberals of all persuasions, as I understand it.

SELZNICK: Well, it wasn’t that hard. Plenty of other people thought the way we did.

COTTERRELL: Right.

SELZNICK: And besides, we talked to each other. We helped each other out.

COTTERRELL: Yes.

SELZNICK: [Chuckles.]

COTTERRELL: This is, again, from that article by Webb. I don’t know whether this is right or not, but he says of your book, *The Organizational Weapon*, that the implicit conclusion of it—Well, he says that the book represents cold war liberalism. That’s what you are saying. But the “implicit conclusion [of the book] was that long-term peaceful coexistence between the USSR and the USA was impossible.”

SELZNICK: Was impossible?

COTTERRELL: Yes. “A combat party whose objective was the acquisition of total social power” - the Bolshevik Party - “could never rest easy until it had attained that end.” Is that—

SELZNICK: Well, that’s an exaggeration, I think, yes. I didn’t really say that. I was mainly concerned- - I actually denied that the American Communist Party was much of a threat to the United States. I said in that book that it was a threat to certain elements, like the labor movement and maybe to liberal organizations and so on which were vulnerable. Maybe certain campuses of universities might be. But to the country as a whole, I didn’t think they were any big threat.

COTTERRELL: But around Hollywood, it was real?

SELZNICK: Well, not just Hollywood. There were some unions in which they had the leadership. There were some unions in which they threatened to be the leaders. They were very active. Fighting communists was very important and very real in, for example, the United Automobile Workers Union. Communists did not control the UAW, but they had a large faction. If there hadn’t been a lot of work on the part of the leadership, that would be different. That was true of other important unions, too. The communists controlled the International Warehousemen’s Union, the Longshoremen’s Union in New York and in San Francisco.

So with respect to the labor movement, it certainly was a big problem, and I think with respect to liberal organizations, it was a big problem. I guess I would probably have said, although I don’t think I did, that certain other institutions are vulnerable, too. But that really didn’t mean the country was vulnerable.

COTTERRELL: But maybe you had a particularly heightened sensitivity to these risks and possibilities because you’d been inside it all before.
SELZNICK: Yes. I certainly had a better understanding of what I was talking about, yes, because I had been inside not the communist organization but something similar.

COTTERRELL: A related thing, yes.

SELZNICK: Yes, something similar, yes.

COTTERRELL: And I think quite a lot of the people who were around the Rand Corporation were people with a similar background, weren’t they? Who had had that experience and could bring that knowledge--

SELZNICK: I never knew who was who. I don’t know whether that’s true or not.

COTTERRELL: Right. Okay. So you were at UCLA until ’52, and then you were lured to Berkeley. How did that happen? You told me a little bit, but how did it come about that you moved from UCLA to Berkeley?

SELZNICK: I can’t remember exactly. I suppose I got a letter from somebody, saying we’d like you to come to Berkeley.

COTTERRELL: It was an invitation rather than an application?

SELZNICK: Oh, yes, certainly, certainly. I wouldn’t have dreamed of applying.

COTTERRELL: Why not?

SELZNICK: It’s not done! [Laughs.] No, no.

COTTERRELL: Because it’s another part of the University of California?

SELZNICK: Well, I think in American universities, that’s generally not done.

COTTERRELL: Oh, I see. Yes, okay.

SELZNICK: You don’t do it.

COTTERRELL: Yes, this is a cultural difference.

SELZNICK: I think so. Yes, you don’t do that. You do apply when you’re very young, just going into it, but once that-- I don’t know. It’s very unusual for people to do that.

COTTERRELL: You go and visit instead.

SELZNICK: Yes. These things can always be arranged, too, informally. No, what was really happening was that they were building this Department of Sociology, and the people who were already there, they knew about me. I mean, people like [Martin] Marty Lipset and Reinhard Bendix. It may well be even [Herbert] Blumer, although he was just coming also. They wanted me to come, too. I can’t
remember the details of it, but it was a delicate thing. The Berkeley people were not supposed to lure people from UCLA, but there was a way of getting around that too, and they did that.

COTTERRELL: [Chuckles.] What? Some kind of--

SELZNICK: I don’t know.

COTTERRELL: --a quiet deal of some sort?

SELZNICK: I don’t know. Maybe the two chancellors had a talk, and they shook hands and said, “Well, okay, this one would be all right.”

COTTERRELL: So what was the attraction of Berkeley?

SELZNICK: The main attraction of Berkeley really was, immediately, that Gertrude was not happy at Los Angeles. And we were actually separated for a while. She was in New York. Anyway, it looked like moving to Berkeley might be a good step. To do that. I was not unhappy at UCLA. I thought it was okay. Also, Berkeley had a certain image of being a very, very nice place, and I knew also that it was nice, and San Francisco was, and it just seemed like an attractive thing to do, so I did it.

COTTERRELL: So was it the place? Was it the environment?

SELZNICK: I think it was more that than the University, itself, yes. Or the Department.

COTTERRELL: When you moved-- initially it seemed as though it would be more of the same, another place to work--

SELZNICK: Yes, right.

COTTERRELL: But not a big upheaval except in terms of where to live?

SELZNICK: Right. I mean, Berkeley had a certain aura which must have been also a little bit of an attraction. It was the senior campus of the University. But I don’t think that was a big thing for me.

COTTERRELL: What was Berkeley like when you moved here? I mean, the Sociology Department, first of all.

SELZNICK: The Sociology Department was rapidly growing into a major-- it very soon became the most important department in the country, and had a lot of support from the administration. People were being brought in. And very active. Some of the people were really outstanding. And it had this very good combination of people who were interested in theory and people who were interested in developing specific lines of research.

COTTERRELL: Who was around? Lipset was here.

SELZNICK: Lipset was here. Lipset and Bendix. They were, for a while, working together. They did a collection on social stratification. Reinhard [Bendix] was working on that excellent book he did on *Work and Authority in Industry*. Let’s see, who was there? There were a couple of people who were
holdovers. [Robert] Bob Nisbet was there when I came. Herb Blumer--I think he arrived the same year I did. Obviously, that had been in the works, because he came as chairman. There were some younger people, like a protégé of Blumer’s. There was [Tamotsu] Shibutani. Kingsley Davis came a bit later. Those are the main people.

COTTERRELL: So how big was the Department?

SELZNICK: I don’t know, there were about a dozen people.

COTTERRELL: And how many students?

SELZNICK: Graduate students?

COTTERRELL: Yes.

SELZNICK: Gee, I don’t know. There must have been thirty, something like that.

COTTERRELL: And it was growing quite rapidly?

SELZNICK: Oh, it was growing rapidly, right. And we had a very different admissions policy in the fifties. It was very easy to get admitted. We did not have quotas. Nowadays they have quotas. You can only admit so many people. And so you have to be very careful. We followed more a practice of letting lots of people in but then assuming there was going to be a lot of attrition very quickly, which I still think, if you can do it, is the best policy because it’s very hard in sociology to tell in advance who’s going to do well.

COTTERRELL: They get a chance to prove themselves.

SELZNICK: Right.

COTTERRELL: In a year or whatever.

SELZNICK: Right. I liked it because it was obviously a strong department. I liked being part of a group of outstanding people. It was certainly better than the situation in Los Angeles. I had no real objection to the situation in Los Angeles; it was all right; they treated me well. But here clearly something was on the move, and really more significant.

COTTERRELL: Did that translate itself into the idea that you were working in a team of extremely able sociologists and that at UCLA maybe you had been working more on your own?

SELZNICK: It didn’t really. It was nice to have that feeling, but in fact, I think I still worked on my own, and I think almost everybody else did, too. I think after a few years, I began to think that the Berkeley department, although it was a wonderful department, when you see them as a collection, they didn’t work together too well. They were a bunch of prima donnas.

COTTERRELL: [Chuckles.]
SELZNICK: People had their main interests elsewhere. You didn’t really get a really good feeling of solidarity and working together. I’m not saying it was terrible, but it wasn’t a very positive thing. And then that sort of helped to increase the interest that one might have in looking outside the Department for more sources of stimulation and interest and so on.

COTTERRELL: Were you doing that?

SELZNICK: Well, I was to some extent, but maybe it had nothing to do with the Department; it was just following things up. I got-- but I think that was a little later-- I had a connection for some years with the Hutchins Center in Santa Barbara. I used to go down there fairly regularly. I think you have to think about something else: I was also very much involved in my own work, including the textbook that Leonard [Broom] and I did.

COTTERRELL: Yes.

SELZNICK: That was going on in the fifties.

COTTERRELL: Nineteen fifty-five, wasn’t it, that came out? [Sociology: A Text with Adapted Readings]

SELZNICK: It started when I was in Los Angeles, but I guess we finished the first edition around ’55. But I didn’t have any time or interest in assessing the Department very much. I didn’t pay that much attention. I had some people who were there whom I had been with, and it was nice.

COTTERRELL: Leonard Broom. He wasn’t here, was he?

SELZNICK: No. In Los Angeles. And then he went to Australia. ANU [the Australian National University]. He was there for some years. Then he went to Texas. But when we first started working together, it was in Los Angeles. We did some planning and things like that. And then we saw each other quite a bit. I went to Los Angeles quite often during the first years that we were here.

COTTERRELL: So you started as assistant professor in 1952 to ’3, and then you were associate professor ’53 to ’7, and during that time, you were writing Leadership in Administration.

SELZNICK: Right.

COTTERRELL: That came out in ’57.

SELZNICK: Right. I think by that time I had already begun work also on the Industrial Justice Project.

COTTERRELL: Yes, right.

SELZNICK: That took a long time to get done, for all sorts of reasons. But I recently reread a piece that I wrote that was published in ’59, but it was really for the ’57 meeting of the ASA [American Sociological Association] on “The Sociology of Law.” In that piece-- first, let me make clear that I had already gotten interested in the sociology of law in the mid-fifties, not too long after I came to Berkeley.

[End of Tape 4A. Begin Tape 4B]
COTTERRELL: Yes. Well, just to say a word about the *Leadership in Administration* book. This was important for lots of reasons. One was that you sort of codified the distinction between organization and institution.

SELZNICK: Yes.

COTTERRELL: And you developed the notion of the institution as something which could have a life of its own and be multifaceted, pointing in lots of directions, having a lot of needs.

SELZNICK: I guess one of the things I was trying to do sociologically was to give a somewhat new twist to the process of institutionalization and think about that in connection with character formation and competence, the distinction between critical and routine decisions. You know, things of that kind. By way of that analysis, to give some texture to the phenomenon of institutionalization. In a strange way--some people reading that book, I think quite properly treated it as an invitation to think about organizational culture. I did not really use that word. I preferred the idea of character. But I was talking, to a large extent, about what people talk about when they talk about culture, but I wanted to have a somewhat different way of thinking.

COTTERRELL: Why is character better than culture?

SELZNICK: Well, I was trying to say that culture really has to do with aspects of character: beliefs that are shared, the patterns of behavior that emerge with traditions and practices, whereas the character of an organization can also be defined by other things, like external commitments and so on and so forth, various inner dynamics that you wouldn’t see otherwise. But, nevertheless, it was taken as a kind of a manifesto about organizational culture. Some of the more popular things that were written that were based on that focused more on organizational culture.

COTTERRELL: Maybe because at that time, people couldn’t readily see the way you were moving towards sort of a holistic view of--

SELZNICK: Well, the people who were mostly interested in that were people who were practically minded. I mean, actually, sociologists haven’t paid a lot of attention to that book. I don’t think [so]. They haven’t seen it as a contribution to the theory of institutionalization. They don’t even think much about the theory of institutionalization. But people who were interested in management took *a lot* of interest in it. I mean, even now, today, it is still widely used in places like some of the major business schools, the Wharton School [of Finance] and places like that, Harvard Business School. It’s probably better known in political science than in sociology, and certainly among people who are interested in administration. And so they looked at it more for a language that would help clarify some problems of management, and the sociological aspect of it got somewhat--

COTTERRELL: Yes. It’s a very partial view, isn’t it, of what you were doing, really. I mean, they are not just management problems, are they? They’re questions about the whole-- all the interplay, all sorts of things going on.

SELZNICK: Yes.
COTTERRELL: It seems to me that-- You said that you were already thinking about law at that time, and this is a very key component, isn’t it, really, in moving towards that: the separation of the idea of institution from organization, and trying to portray the richness of the institution.

SELZNICK: Right. I think that’s true. I wasn’t myself too much aware of all these things I might have done if I had thought about it a lot. I might have done more to rewrite this thing and publish something that would make more sense to sociologists. I mean, I did write this in a way that invited its fate of being mainly of interest to people in management studies. I think sociological students of organization have not ignored it. That’s true. But as far as sociological theory more generally, I think it probably hasn’t seeped in. But maybe it hasn’t seeped in because the whole theory of institutionalization and its significance is not well understood in sociology. It’s not a topic in a course on sociological theory, I suppose.

COTTERRELL: Some people have said that it’s maybe your most conservative book, Leadership in Administration, because you do put heavy emphasis on the role of leadership, the leader’s position in sort of galvanizing everything and getting everybody pointing in the right direction and not very much emphasis, relatively little emphasis, on the rank and file, the troops, so to speak.

SELZNICK: Yes, I think that’s probably true. I’m not sure that I meant it to be that. I didn’t mean it to be that, but probably the logic of it is that it’s more conservative. I would say that one of the things that I missed in writing that book was this idea that I’ve more lately given a lot more attention to, and that is the idea of responsiveness. I should have. I mean, if I were doing that again, I probably would have tried hard to include a discussion of responsiveness as an aspect of leadership, but I didn’t do that.

What time are we getting to be?

COTTERRELL: Do you want to pack up now?

SELZNICK: What’s now?

COTTERRELL: Five o’clock. It’s five.

SELZNICK: I can’t see a watch, but I have a [talking watch, which he activates].

COTTERRELL: Just five, five o’clock.

SELZNICK: I just press a button. It tells me what the time is.

COTTERRELL: Yes. Well, if you’re getting tired, we can--

SELZNICK: I’m trying to impress you a little bit. [Laughter.]

COTTERRELL: It’s very clever. [Both laugh.]

SELZNICK: I have to call Doris [Fine] so she’ll come and pick me up. Shall I do that now?

COTTERRELL: Yes, that’s fine. We’ve covered a lot of ground today.
SELZNICK: Yes. No, I mean it’ll take her about fifteen minutes to get here. Do you want to help me--

[Tape interruption.]

COTTERRELL: The other thing that was happening in the mid-fifties [that] you were involved with was the Institute of Industrial Relations. You were a research associate there from 1952 to ’60.

SELZNICK: That’s right.

COTTERRELL: You said that you were working on the ideas that eventually became *Law, Society and Industrial Justice*. So presumably that was work you did there?

SELZNICK: I probably started that when I was at the Institute. I’d forgotten that. But, you know, the main thing I was doing with the Institute was something else. When I came to Berkeley, I found immediately that I was confronted with a request to do something. The Institute of Industrial Relations had gotten money to do a study of this old-age movement, which was quite prominent then in California. The person in charge of that was dying, was very sick, and so Clark Kerr-- Clark asked me to take over. I just couldn’t say no. I wasn’t too happy about it, but I did it.

What happened was there was a political scientist named Frank Pinner, who was a survey specialist. He did a survey in connection with that project, and we did a kind of organizational analysis. A friend of mine, who was a journalist, Paul Jacobs--he was brought in, too. It was a couple of years, really, spent on that project, and it finally was published as a book called *Old Age and Political Behavior*. I wasn’t really interested in it. I didn’t really want to do it, but it was just a matter of fulfilling an institutional need, and so I did do it. That was part of it.

COTTERRELL: And I think Lipset was also involved with that.

SELZNICK: No, not with that-- Oh, with the Institute?

COTTERRELL: The Institute, yes. With the Institute of Industrial Relations.

SELZNICK: Yes. And actually, the main person was really Bendix. I guess partly because of Kerr-- during the fifties, the Institute was a very important source of research funds and assistance and so on. I mean, that was in the early days, the beginnings of research institutes on the campus. The Institute for Industrial Relations is peculiar in this sense (I think I mentioned this last night), that it’s a statewide organization and has a budget that was approved by the legislature. So it had money. I offered-- I remember there was a little cluster of research assistants that you could get, by way of a project at the Institute.

COTTERRELL: So it happened to be based here in Berkeley, but it was actually California-wide?

SELZNICK: California-wide. I think they have their office in Southern California, too, but here is where its main office is. Bendix was, I think-- his book, I don’t know if you know it; it’s a really fine book and got the attention it deserved, called *Work and Authority in Industry*.

COTTERRELL: But Lipset must have been working on [the studies that became] *Political Man* at that time.
SELZNICK: I think so. Yes, yes.

COTTERRELL: [It was published in] 1959.

SELZNICK: Yes.

COTTERRELL: So there were all sorts of different things. As you said, people doing their own projects, under an umbrella.

SELZNICK: Yes, that’s right. I think there was that, and of those I mentioned, Marty [Lipset] and Reinhard [Bendix] were working together. They did this work on stratification. I once said of the Berkeley Department - [in] some talk I gave - that it had the special mission of turning marginal fields into central ones. I think that was largely true. People were really working at making industrial sociology a serious intellectual discipline, [and] political sociology.

COTTERRELL: Yes. It’s a good mission.

SELZNICK: What?

COTTERRELL: It’s a good mission to have.

SELZNICK: Yes, it was a good mission. And I think implicitly people accepted it. I think the thing that made it practical was that they were the kind of people who were interested in broader issues as well as sort of a narrower focus on empirical questions.

COTTERRELL: And you were also consultant on the Trade Union Project for the Fund for the Republic in 1957 to ‘62.

SELZNICK: When was that?

COTTERRELL: Fifty-seven to ‘62.

SELZNICK: Hmm. I guess that’s right.

COTTERRELL: And I’ve got this quote. It was “a wide-ranging investigation of the American labor movement, which the fund commissioned in the mid-1950s. Among the other participants were Daniel Bell, Seymour Martin Lipset, and Paul Jacobs. Unfortunately, the study was plagued by problems, and for all the effort that went into it, very little was ever published.”

SELZNICK: Who said that?

COTTERRELL: Webb.

SELZNICK: Oh, well. Well, I know I didn’t say that.

COTTERRELL: He’s an opinionated guy, I think.

SELZNICK: That’s all right.
COTTERRELL: Yes.

SELZNICK: He’s probably right, on the whole. Something did come out of it. Paul-- He was a very good friend of mine, a very able person, not an academic; he had been a trade union organizer, actually. When I first knew him, he was an international representative for the Oil Workers Union. Very smart. And he became something of a journalist. He wrote pieces for the Reporter magazine, when it was established, while it lived, and other magazines. He was a magazine writer.

Then he published this book called The State of the Unions, by the Hutchins Center.

See, the Fund for the Republic - maybe you don’t know this - morphed into the Center for the Study of Democratic Institutions. I think the background is-- and here I may have it a little bit wrong, but basically I think it was true, that when the Ford Foundation was established, one of the chief directors of it was Robert M. Hutchins. I think he didn’t get along with the other people. He had opinions, I guess, on what the Foundation should be doing that they didn’t share. Anyway, he was kind of let go but with, I don’t remember how much, a $15 million consolation prize. I mean, not $15 million for himself. With that money, he created the Fund for the Republic, which-- this must have been around 1950 or so. The Fund for the Republic mainly supported particular projects, like this Trade Union Project. Maybe one of its most successful projects had to do with the role of the media. They had a commission on the freedom of the press or something like that and put out some kind of big project.

So Paul was connected with that, too. He stayed. He remained connected with the Fund for the Republic.

Then at some point-- I don’t remember when exactly, but in the mid-fifties, I think, Hutchins decided that what he really wanted was a think tank, and so the rest of the money of the Fund for the Republic was spent on creating this Center for the Study of Democratic Institutions, which was sort of like a little monastery in the hills of Santa Barbara and was very charming, very nice. Some of us benefited from that. It was nice to go there fairly frequently.

Paul was there, but it had people there temporarily. He spent money. He had no interest, I think, in creating a permanent institution, so whatever money he had, he spent, Hutchins. And so it was-- I wouldn’t say terribly lavish but fairly so. Very nice setting. A beautiful place, with a big courtyard, a nice meeting room.

And then he spent a lot of money on bringing people in from all over the world. All kinds of people came to give a talk at the Center.

COTTERRELL: Just sort of pulling together a lot of what we’ve talked about today, American sociology in the fifties-- we got up to around 1960, something like that-- I mean, in Britain, my country, sociology has always been treated as kind of a left-leaning discipline. Was it seen in that way in the fifties here? I mean, you talked about the impact of the cold war on a lot of research that was done and so on. I don’t have a very clear sense of how sociology and sociology departments were viewed within the political spectrum. There was a lot of enthusiasm for sociology, wasn’t there, at that time?

SELZNICK: There was, but I think to some extent there was a sense that sociologists were either lefties or ex-lefties, and what’s the difference, you know. But much more important was the sense that, you know, maybe they’re onto something and the notion that sociology should be supported as a mainstream
discipline; it ought to be given a lot of attention by universities. Foundations were paying attention to it and so on, and so that was a very strong thing in the fifties. There were a lot of high expectations that people had, high expectations from quantitative research.

COTTERRELL: But in a way, the sort of work that you were doing, the ideas that you’d come up with and were important to you were ideas that should have reduced expectations in some way, shouldn’t they? [Ideas that] there’s a limit to what could be achieved; there’s a limit to what could be done.

SELZNICK: Yes.

COTTERRELL: Organizational planning and all of that.

SELZNICK: Well, that was a theme that people were developing, too, at the time, the idea that there might be limits, and certainly whatever expectation there was about sociology did not improve the political standing of planning in the United States, because that was descending rapidly. So even the fairly liberal regimes that were developed after the New Deal, after the war, were not very much interested in planning.

COTTERRELL: Yes, that’s a tremendous contrast, I think, with what was happening in Britain--

SELZNICK: Yes, right.

COTTERRELL: --because [there] they were trying to build a welfare state after the war, and there was a huge optimism.

SELZNICK: I think the conservatives won a big battle there [in America], that somehow planning would be socialistic and maybe even Bolshevik and stuff like that. That was a major, major thing. So I don’t think sociology did very much to improve that situation.

COTTERRELL: So what were the expectations of sociology? If it wasn’t a kind of great tool of social engineering that you could change the world with or change society with, what was being hoped for? Just a better understanding of what life was like out there?

SELZNICK: Well, that’s one thing, but I think that in some dim way, people were beginning to realize that there might be something going on here with respect to polling and social survey research. It was the sociologists, after all, who were organizing these sampling techniques and so on, and so people were, in a dim way and in the strange way these things get done you know, the reputations were being developed. There has been a lot of sociology in the advertising business.

But I think in the world that we’re talking about, they were mostly thinking that maybe sociology would come up with some advances that would really make a difference for policy.

COTTERRELL: And there was a lot of worry about political apathy, wasn’t there?

SELZNICK: About what?

COTTERRELL: Political apathy, people not really being interested in voting.
SELZNICK: Yes.

COTTERRELL: And that is reflected in Lipset’s *Political Man*, that kind of thing.

SELZNICK: I don’t know. I think it’s too hard to make these generalizations. These are all very vague senses that people have, and there are different people feeling the animal from different places, and some people responding to the idea that—the so-called law of unanticipated consequences as that came to be developed, which is no law at all; it’s just silliness. And other people being impressed by the trenchant analyses of particular areas that were being done, thereby a considerable increase in the intellectual stature of sociology, at the same time as people were still pooh-poohing sociology as not amounting to anything.

In the end, the reputation developed, I suppose by the sixties, that it was a discipline that you could hate but you couldn’t do without, and the other disciplines—history, political science, economics—they were all in some way moving toward sociology, to embrace it. And economics, of course, pulled back to rational choice theory and things like that.

COTTERRELL: By the sixties it [sociology] had become really fashionable, hadn’t it?

SELZNICK: Right.

COTTERRELL: Very, very high expectations.

SELZNICK: Right.

COTTERRELL: In the race relations field.

SELZNICK: And then you had race relations. I think a big boost to sociology was the work of [Gunnar] Myrdal and company. Also the whole transformation that was taking place in the [U.S.] Supreme Court. It seemed to be that these were people who had something to say about very important social policies.

COTTERRELL: The Supreme Court starts using statistics--

SELZNICK: It wasn’t all that true, because they weren’t basing themselves on those analyses, but I think it was more a matter of a growing intellectual respectability than anything else, including, among some people, the idea that somehow there might be really important steps forward that would develop. And I suppose, for some people, they would say the important step forward did develop, in the form of opinion sampling and survey research analysis and things like that.

COTTERRELL: Okay.

[Professor Selznick’s talking watch announces, “It’s five-seventeen.”]

SELZNICK: How are we doing? What time is it? Yes. I’d better go down.

COTTERRELL: Yes. Well, we’ve covered a lot.

[End of interview.]
ROGER COTTERRELL: All right. This is Interview #3 [at Philip Selznick’s house, Berkeley], and this is the 29th of January, 2002.

I thought we’d get into talking about law quite quickly now, because we got up to about 1960 or so yesterday. But before we talk about law, I wondered if we could talk about the Sociology Department at Berkeley at bit.

PHILIP SELZNICK: Yes.

COTTERRELL: Because you became Professor of Sociology in ‘57, and then you became chair of the Sociology Department in 1963.

SELZNICK: That’s right.

COTTERRELL: Sixty-three to ‘67.

SELZNICK: Yes.

COTTERRELL: And they were pretty exciting times.

SELZNICK: The sixties, yes.

COTTERRELL: Yes. But becoming chair of the Sociology Department was that something that was attractive, or was it something that you had to do, really, as a professor?

SELZNICK: I think more the latter. People were taking turns, and I think Herbert Blumer was chair during most of the fifties. Certainly until ‘56 or ‘7, or something like that. And then I think we had Reinhard Bendix, who was a quite senior person there. And then I think around 195-- no, in the early sixties, Kingsley Davis was chair, but he was only briefly, I think only two years, because he was not temperamentally suited for that.

COTTERRELL: You mean he gave it up?

SELZNICK: Yes, he wanted out. He would get too angry at everything.

COTTERRELL: So did you take over from him?
SELZNICK: Yes. So I was chair during the big crisis here, of the free speech movement.

COTTERRELL: So what do you remember about what happened and how things developed with that? And, obviously, your position with relation to it.

SELZNICK: Well, it's a long story. I don’t know how much you want to know.

COTTERRELL: No, I mean--

SELZNICK: I remember a lot.

COTTERRELL: --as it pertains to your particular positions.

SELZNICK: Did you ever see-- there was a lot of division on the campus, and to some extent in the Department, over what was happening. One of the leading persons who was, you might say, on the more conservative side was Nathan Glazer. He was in the Department at that time. And I guess Lipset was more along that line, too. Kingsley Davis, of course. But I think most of the Department was basically sympathetic to the free speech movement.

COTTERRELL: And the students were trying to escape from the effects of university ordinances, which basically said that they were not allowed to talk about politics on campus.

SELZNICK: It got somewhat arcane. We had a longstanding policy on the campus that purportedly derived from a constitutional provision that the University should be kept free from political influence. This was interpreted to mean that there could not be organized political debate and discussion on the campus, so that when, for example, in 1956, I think it was, Adlai Stevenson was running for president, I remember going to a rally of Stevenson’s, but he could not speak on campus; he was speaking from a platform set up at the boundary of the campus. And the rule was also interpreted to mean that any of these things had to be kept off campus, including student politics. There were various boundary lines that were set up at the edge of the campus, so that at a certain point, student activists would set up their tables and things like that. Now, of course, it’s all on the campus, but before, it had to be all off the campus.

A background fact of all this was the civil rights movement. That is what created a kind of serious legal issue. The people who were opposed to full freedom of speech, including Glazer, wanted to say--their position, at the end, was that we should not accept on campus, speech directed to illegal action off campus. Now, if you think carefully about what this means, it was an effort to keep people from organizing, let’s say, civil rights actions or anti-Vietnam War actions on the campus that might actually take place off the campus, and these might involve certain illegalities, like trespass or something of that kind.

So that was kind of the final position of the conservatives.

Did you ever read the piece that I wrote about this? [“Reply to Glazer” in Commentary, March 1965]

COTTERRELL: Yes. Yes.

SELZNICK: Okay. So you generally know my position on the thing.
COTTERRELL: Yes.

SELZNICK: Nat Glazer, I guess because of his journalistic background and inclinations, very quickly went into print with a story about what happened at Berkeley, in Commentary. I decided I should answer that, and I did. At that time, the editors of Commentary were more open minded than they became later on, and so I had no problem. They didn’t give me any trouble with my answer. They printed it as I wrote it.

COTTERRELL: So basically you thought the students had a legitimate grievance. Maybe the way they were doing things wasn’t always the best, but--

SELZNICK: Right. I said that in that piece. I said, the students had a good cause, and they yearned for affirmation of it. And the cause was good. And indeed, almost everybody on the campus agreed with the basic idea that this whole thing was nonsense and that we should have had free speech on the campus all along. There was, of course, difference of opinion about the tactics: the mass rallies, the potential-- there was no actual riot, but there was always some kind of potential that was going on there.

One of the big events of the early days of the action in 1964, I guess, was that a large group of people surrounded a police car, and some of the student hotheads got up on top of the police car and harangued the crowd, using that as a platform. That made a lot of people nervous, as you can imagine.

COTTERRELL: Yes.

SELZNICK: Then later on, again building on the experience of the civil rights movement, there was a big sit-in at Sproul Hall. That’s when the police were called to throw everybody out. Anyway, I’ve told this story in that piece.

COTTERRELL: The University central administration-- it was Clark Kerr, wasn’t it, who was president.

SELZNICK: Clark was president, but the chancellor-- he, himself, was somewhat limited in what he could do, Kerr, because he was president of the statewide University. We had a chancellor, somebody from the Philosophy Department, named Edward Strong, who took a very hard line against the students and showed very little good sense. And I think Kerr would agree with that. As a matter of fact, one of the things you could look at if you had a chance would be to-- I don’t really know. I think Kerr has been writing his memoirs, and I noticed in a bookstore recently that volume one, the first volume was published. Whether this includes anything about the free speech movement or his presidency, I don’t know. But I have talked to him about this, and I know that he was very upset by the way Strong handled things.

COTTERRELL: I suppose I’m, for the purposes of the tape, really concerned with your position in this. You were chair of the Sociology Department.

SELZNICK: I was chair of the Sociology Department, but my view was that this was a controversy that was a campus-wide controversy, and that we should try to keep this controversy out of the Department.

COTTERRELL: But, I mean, your colleagues were split over it. Some were.
SELZNICK: I know, but everybody had lots of opportunity to participate in non-departmental meetings. There were lots of meetings going on that people could speak at or do whatever they wanted to. There were groups being organized on the campus. It was a time, actually, when people got to know, that much better, other people in other departments because these groups cut across the departments.

I guess I played a somewhat active role in [what] you might call the liberal faculty movement, because I spoke several times at meetings of the Academic Senate, and I was kind of a leading member, I guess, of the so-called Two Hundred Group, when two hundred faculty members got together and tried to work out their positions.

COTTERRELL: That was on the liberal wing?

SELZNICK: Yes, the liberal faculty. Liberal in the sense of people who were supporting free speech on the campus. And I had a view that is really somewhat connected to my communitarian notions. I explained this briefly in that article for *Commentary*. For many liberal lawyers, faculty and so on, the arguments that they were presenting all had to do with the constitutional requirements of a public university, and that the University had to allow free speech because that was what the law would require.

I didn’t take that view. I took the view that the University is an institution that requires a certain atmosphere and that it didn’t matter that we were a private or a public university, and that the University’s policy should be its own. And that, I think, is continuous with a communitarian view, as I see it, that would give a lot of emphasis on the distinctive character of institutions and their role in the community and so on.

COTTERRELL: Yes. I guess you could pick a lot of themes out of that experience which tie in with what you were already writing and what you would go on to write. I mean, the idea of responsiveness, of regulation which is responsive and which can be worked out.

SELZNICK: Yes, I’m sure that-- I have no doubt, really, that the ideas that were perking, coming to the surface in my mind about law were certainly much influenced by this experience of the sixties, the role of criticism. I had understood this before, but I think more abstractly. This sort of brought home, made more vivid and more concrete, the importance of some of these things, so you couldn’t really overlook them.

COTTERRELL: Yes. Yes. There’s something you wrote in the reply to Glazer, which is very much about a kind of incipient philosophy of law there, to the effect that-- well, you said, “Glazer tellingly documents the administration’s rigid and inept handling of the dispute. But he does not grasp the significance of the fact that arbitrary administrative action lay at the base of the controversy, and was fuel to its flames at every step.... The obligation to obey the law is among the more subtle and variable of human commitments. In assessing that obligation, we take account of the nature of the setting, the character of the rules and of their enforcement, and the legitimate interests of the offender.”

SELZNICK: Those are golden words.

COTTERRELL: It seems to me that’s responsive law, isn’t it?

SELZNICK: Yes.
COTTERRELL: In many respects.

SELZNICK: Yes, I think so. I was saying that you can’t just ask for obedience. That’s really what the administration was doing. It was saying, here’s the law; here are the rules, and you have to obey them. And they didn’t want to ask any questions about the nature of the controversy, the context within which some of these things were going on.

Interestingly, I think I referred there to the report written by someone who would later become chancellor, [Ira] Michael Heyman, of the Law School, who was chair of some kind of committee that was supposed to assess what should be done about the student violations and so on. That report was very sensitive from this point of view. He tried very hard to show that you can’t just make them kind of a mechanical call for obedience; you had to look at the context of controversy, the political elements that were involved there, and so on.

So yes, I think that all of that was very much there.

COTTERRELL: Of course, the Center for the Study of Law and Society had already been in operation for three or four years then.

SELZNICK: Yes.

COTTERRELL: I want to leave that aside for just a moment and keep talking for just a moment about the Department of Sociology. Apart from all the free speech things going on around that, there were people like Lipset, Nathan Glazer, William Petersen, who are the only names I’ve got here at the moment. I just wondered if you could give me a little picture of the Department as it was at that time, around the time when you became chair of it.

SELZNICK: It was a department that, from a political standpoint, was I think you’d say, broadly speaking, liberal. Almost everybody voted Democratic. You know, that kind of thing. In that sense. But there were very important differences. And Martin Trow was in the Department at that time, too. Yes. There were several people who had close ties to the administration, for one thing, including Lipset and I think Trow also. And then there were some people who were moving toward conservatism on various issues, like Bill Petersen.

There were people like Bendix, who probably didn’t differ so much on intellectual grounds, but he had a more European image of university authority and the deference owed to professors and things of that kind, and so probably was, I think, much more offended by some of the somewhat outrageous tactics and also the aggressive and angry speeches that were made by some of the student leaders at that time. You could understand that.

COTTERRELL: Did you enjoy being chair? Did you enjoy holding things together?

SELZNICK: I liked it for a while, the first year or so. I thought that was interesting. I don’t know if I enjoyed it, but I tried to hold things together and tried to keep the Department from being itself a cockpit for these fights. It didn’t seem necessary to go over those issues inside the Department.

COTTERRELL: That must have been hard to do because with people taking such strong positions, it would become a very personal thing, no doubt.
SELZNICK: In some cases, people personalized it very much, and it was difficult. People got angry. That was a sort of interesting thing. [A thing] I learned early in my life---this may have been one of the advantages of my early radical past---was that in the context of---that is, when I was young, people didn’t get angry. They might say angry things, but they weren’t really angry. People were accustomed to polemics and accustomed to the idea that there were going to be differences and that people will find themselves on different sides of the barricades and this and that, but it wasn’t appropriate to get really angry.

But in the Berkeley situation, people did get very upset personally. They took it personally. Many people did. I tried hard to keep that from happening. But I think what was really interesting was that most of the argument---institutionally, things were so arranged that most of the arguments could be handled outside the Department. I mean, it was a very lively, very active time, with all kinds of meetings and so on, but they weren’t departmental meetings, and it wasn’t a department as such that was an actor in this thing.

I mean, that’s somewhat of an exaggeration. I described there [in the “Reply to Glazer"] this effort on the part of the department chairmen to come together and sponsor a so-called compromise. There was this very ceremonious meeting in the Greek Theater, and it turned out to be a disaster. I was particularly upset then. I had gone out of town during those days. I had gone to some meeting in the east, I think. And when I came back, I heard about this thing with the department chairmen.

As a kind of courtesy, I had appointed my friend, Leo Lowenthal, to be vice chairman, so he was acting chairman, technically, while I was away. And there he was, sitting on the stage. I came back just in time for that meeting. I looked up, and I saw---that was the only time I sort of got personally upset. I said, What was he doing there? He wasn’t supposed to be there. He enjoyed too much--you know, he wanted to be part of the department chair group.

COTTERRELL: In a way, maybe it made things interesting teaching sociology. The students must have been extremely galvanized in all sorts of ways, interested in everything that was going on and so on.

SELZNICK: Yes, I suppose it did a lot to interest people in political sociology.

COTTERRELL: Yes.

SELZNICK: I don’t know whether it did a lot for other branches of sociology. [laughs.]

COTTERRELL: And things sort of went on, with controversy, all through those years. In 1968 there were the student riots. This was after you had ceased to be chair, but presumably you were still [affected]?

SELZNICK: Yes, things got bad. The focus shifted from the free speech issue to other things, although not entirely. A little bit after that--I forget the exact year, but there was a so-called--well, it came to be known, somewhat over-dramatically, as the filthy speech movement, where somehow the limits were tested of speech by the so-called Fuck Episode, where some kid--he wasn’t even a student, really--came up in front of Sproul Hall and held up a sign with the word “fuck” on it. And then that excited some of these student leaders or spokesmen, and one of them went down into one of the offices in Sproul Hall and read some lurid passages from D. H. Lawrence to one of the secretaries. It was silly stuff.
That created a great furor. To some extent, it had a lot to do with my own position on the campus, because there was a resignation. The chancellor resigned. I can’t remember whether the president also did, but I don’t think so. I can’t remember now. Anyway, it was treated as a major event. There was a huge meeting of the Academic Senate, a couple of thousand people there.

This meeting had been organized in such a way that there would be kind of a resolution asking for these officials to rescind their resignation and saying some other things, and there would be seconding speeches from various sectors of the community. I remember Marty Lipset gave one of them.

And I was also scheduled to give one of those seconding speeches, representing, more or less, the liberal faculty. That became a somewhat famous speech, at least among people who knew me, because instead of following some notes or text that I had prepared and being in effect a good soldier, I was so outraged by the language that had been used by the main proponent, who was chairman of what was then an emergency executive committee of the faculty-- I was so outraged that I just came out with a very strong defense of the students.

COTTERRELL: What was it that outraged you so much? The style?

SELZNICK: He reviled the students. Several times he kept saying, “And then there was this outrageous behavior of the students” and so on and so forth, and I said some things that some people have repeated to me at various times over the years. I said, “I am not ready to hand over the head of young John Thomas” - and whoever else [there] was - “to an outraged public,” and things like that. And I could feel the moos of resentment from thousands of people out there. That was the end of any leadership role that I would-- I didn’t care, but--

COTTERRELL: This was after you’d finished as chair.

SELZNICK: Yes, but I think--

COTTERRELL: You sort of burned your boats as far as--

SELZNICK: Well, what this meant was that the people who were in real authority on the campus weren’t going to trust me anymore, if I was going to do something like that, and I didn’t blame them. That’s perfectly okay. But I didn’t care anyway. So we had that episode, and that was still a free speech episode. Actually, I took the view-- if you listen carefully to what I said, I didn’t really want to defend what the students did; I did believe in what you might call an assault-- as a matter of fact, I think [H. L. A.] Hart has used this phrase-- an assault theory of obscenity, that it was wrong for them to be so provocative about this and to try to... And I thought they should be disciplined. Of course, one of them wasn’t even a student at all, and they had no authority over him. They could get him arrested, but that would be all.

But the other thing that was really going on at that time was the intensification of opposition to the Vietnam War. That was really much more important. As the opposition to the war developed, there was a larger group of radicalized students, I think, who were willing to do more things that I didn’t like and were taking positions about the University that I particularly objected to: the view that “we don’t really care about the University; it’s simply a venue for political action.”
That’s very different from the earlier mood, which emphasized things like participatory democracy, but participatory democracy presumes that you care about the institution. You’re going to have better participation; you’re going to make everything better. But that attitude, which was never too clear, probably, anyway-- that attitude was transformed into much more angry and provocative action, including the trashing of some university facilities and things like that.

So I got off the train. I was not going to defend anything like that.

[End of Tape 5A. Begin Tape 5B]

COTTERRELL: You used the word “community” a bit earlier, when you were talking about the University.

SELZNICK: Yes.

COTTERRELL: And you also talked about the institution and so on. I was thinking, while you were talking, about the book, *Leadership in Administration* and what you say there about good leadership and developing values and sustaining the values and so on. I suppose early on, with the free speech movement, you could see the students in a way were participating in that. They were trying to help the values of the institution, in a way.

SELZNICK: Yes. Well, they were helping to articulate what the values of the institution should include. There was, you might say, a difference of opinion that people had. Some people had an image of campus life as instinct with deference, as presenting images of quiet places and charming walks and things of that kind, and other people were saying, “Well, that’s okay, and it might be all right for certain kinds of campuses, but for this kind of campus, we should have a moral atmosphere which should encourage discussion, freedom, debate.” And when you do that, certain things go by the board, or at least they’re threatened.

Things are not going to look so neat if you’re going to allow people to distribute fliers all the time, some of them are going to get on the grounds. If you allow them to post them on poles, it’s going to look a little trashy sometimes. You have to deal with that. More generally, the idea that the values of the university should include creating an atmosphere in which students feel free and in which the continuity between the students as students and students as citizens should be recognized.

You know, this is-- I’m not sure, I certainly didn’t have this explicitly in mind, but this again brings us back to Dewey. Dewey didn’t really write much about the university, but he did write about schools a lot. He was interested in schools as communities. I think one of his ideas was that the boundary between school and community should be opened up, and that would mean that you couldn’t assume that students would leave off everything about themselves that somebody might think was irrelevant to learning.

As a matter of fact, we had some court cases about this, as to whether kids who were opposed to the Vietnam War could come into school wearing a black arm band, which they did. They were protected on that, again on the theory that you couldn’t draw such a sharp line.

So I basically felt the same way, that we had to have an atmosphere in which students should feel free and should be able to learn what it means to conduct a democratic debate and participate effectively in that, even though basically it was an institution in which governance was shared, or basically an
institution in which the faculty was the major player. But why should it be the only player? That didn’t seem right.

COTTERRELL: I don’t want to try to draw more out of this theoretically than there is, but it seems to be a really interesting kind of test case for all sorts of things. One of the things that some people have said about your ideas is that in the fifties, with *Leadership in Administration* and *The Organizational Weapon*, you were really emphasizing the role of elites, and the leaders’ role and so on, and then in the sixties, and particularly with *Law, Society, and Industrial Justice*, there’s a switch towards much more emphasis on participation and the role of-- interplay between the leaders and the led, so to speak.

SELZNICK: Yes.

COTTERRELL: Is it fair to say that all of this that happened helped to turn your thinking more towards concerns with participation?

SELZNICK: You mean these events?

COTTERRELL: Yes. Over a long period, over really much of the sixties, really.

SELZNICK: Yes and no, or as the Germans say, *Ja nein*. I do believe it’s correct to say that, like many other people, I was, by-- various aspects of consciousness were raised for me by the experience of the sixties, seeing so vividly what it means to talk about authority and the acceptance of criticism and all of that. To me, I never felt that I experienced some shock of recognition; it seemed to me that this was really implicit in a lot that I had been thinking already about law.

You’ve got to remember that I had done work on the Industrial Justice Project in the fifties. It wasn’t in the sixties. The basic argument, the basic outlines were in the fifties. Now, there, I was still more interested in institutional change than in popular participation, but it was the kind of institutional change that would make for a more effective governance by the rule of law. That’s why I gave a lot of attention to collective bargaining and the development of a grievance procedure and things of that kind, and internal adjudication, arbitration, all of these things which opened up the system-- that is, the industrial system-- to new ways of thinking.

But it still didn’t quite have the dynamic that the sixties offered. So I would say yes, there was that, but I think I had a view of law and of the relationship between law and authority that preceded those views.

COTTERRELL: Yes. I’ve been in a way putting off talking about law for a little while, but can we go to the point at which you were conscious of an interest in law, law as becoming something that you really felt you needed to spend a lot of time with? Now, as far as I know, the 1959 piece, “The Sociology of Law,” is a sort of start, in print, setting out a program for that.

SELZNICK: Yes.

COTTERRELL: But what drew you to law, and when do you think that happened?
SELZNICK: I think it happened about five years earlier, about the same time as I was coming to Berkeley.

COTTERRELL: The early fifties?

SELZNICK: Yes. It’s hard to be sure about this, but I had started working on *Leadership in Administration* even when I was in Los Angeles, trying to think it out and so on. Indeed, I think, as I mentioned, I originally started it as a project while I was at Rand. I remember having some kind of conversation with people at Rand, or Hans Speier, anyway, the director of the division, about this thing. He basically was saying, “Do what you want.” But I didn’t think he had a lot of interest in what I was up to there.

But during that same period, I was becoming somewhat uneasy about what the future might hold for me if I remained mainly a specialist in the sociology of organizations. I had the idea that this would draw me more and more toward, maybe to a series of monographs on fairly narrow issues and it would detach me from the interests I’d had since my late teens, I guess, certainly early twenties, in the history of thought and philosophy and so on.

And so I was kind of open to some other possibilities. I also somehow came to realize that much of what we were talking about in the sociology of organizations was closely connected to sociology of law because insofar as you took formal structure seriously, you certainly were talking about a legal system or a quasi-legal system, and here again you had this problem of the relationship between this formal structure or legal system and the substructure of social life and the environment within which it operates.

Now, just what exactly led me to think, “Well, maybe I ought to think about law,” is hard for me to say. I think I went back to reading, at that time, Morris Cohen’s essays on law.


SELZNICK: I don’t know what else there would have been in my environment. I didn’t know any people who were involved in that. So I think I decided just about the same time as I was coming to Berkeley that really I ought to look in another direction, not an unrelated direction but in another direction.

COTTERRELL: Yes. It’s very interesting to know what you read, to read yourself into thinking about this new field [sociology of law], because there wasn’t much around. There wasn’t anything really around.

SELZNICK: I think I also read quite a bit of Roscoe Pound. I have never shared-- Pound has fallen into considerable disfavor, I think because he doesn’t write in this style of analytic philosophy and so on, but he had a lot of good things to say. I think all of this led me to do more reading in legal history and things of that kind and also to try, in various ways, to get some background on legal issues.

COTTERRELL: What about the legal realists?
SELZNICK: I don’t think at that time I was immediately that interested in them. I got more interested in that later on. I guess by the time-- as the years went by, I sort of accumulated a library of books on law. Once, I got a grant out of the blue from the Ford Foundation, the behavioral science section. I don’t know what. They decided somehow to endow various people with a couple of thousand dollars of free money to use for whatever they wanted, and I bought a bunch of books.

COTTERRELL: In 1956 to ‘7 you were law and behavioral sciences senior fellow at [the University of] Chicago Law School.

SELZNICK: Right.

COTTERRELL: So, from what you’re saying, that’s just a few years after this interest began.

SELZNICK: Right. Yes. So obviously there was some preparation for that. So I think during those years before that, that made that seem like a thing that I could even think about doing. I had already begun trying to prepare myself for this. I guess I decided at some point that I would not go to law school, not try to take a law degree. I did audit some classes, maybe even somehow took a couple. I can’t remember exactly.

COTTERRELL: Here at Berkeley, in the Law School?

SELZNICK: Yes, a couple of things here at the Law School at Berkeley, and in Chicago. And I think I went through some kind of a program of self-study that was more of a disciplined-- on some basic legal topics.

COTTERRELL: You’d read a lot of [phone rings] Weber when you were--

SELZNICK: Yes, of course.

COTTERRELL: --reading yourself into bureaucracy and all that.

SELZNICK: Certainly.

COTTERRELL: And [Max] Rheinstein published his-- well, you didn’t need an English translation, you could read it anyway-- But Rheinstein published his English translation of Max Weber on Law in Economy and Society in 1954. It sounds like almost exactly the time that you were really [trying to read into law].

SELZNICK: Yes.

COTTERRELL: Did you read that then?

SELZNICK: Yes.

COTTERRELL: Weber’s sociology of law?
SELZNICK: Yes. I just don’t know how significant that was. I think it was more these general things that-- I thought I would enjoy my life more if I were going to do work on more general theory, including jurisprudence and things like that.

COTTERRELL: So in a way, it seems a kind of broadening out from the sociology of organizations. A lot of the things you could see: the organizational rules-- when you put them on a larger canvas, you can see legal institutions.

SELZNICK: Absolutely. And I felt that was right. That probably reflects a disposition that I had going back many years, to try to reach for some more general theory and be appreciative of that, and therefore to see this connection between organizational theory and sociology of law. And I suppose that’s one of the things that led me to have an interest in this Industrial Justice Project. I mean, how that really started, I don’t know for sure, but it may have been somehow stimulated by the fact that I had some connection with the Institute of Industrial Relations. Not that there was anybody there that I really had a close connection with, but just almost symbolically: well, yes, industrial justice is something...

And I think from work in organizations, it was rather easy to move to these conceptions of private government and the notion that principles of due process and things like that would be highly relevant to the exercise of authority in large organizations.

COTTERRELL: Just going back to Roscoe Pound for a moment, I’m fascinated that you found Pound a good way in, in a sense. As you say, Pound is a very disparaged figure now, and a lot of people say-- well, one consensus is that Pound is a very woolly guy. Everything is mixed up in Pound, not really a lot of social science, although he picked up a bit of social science from Edward Ross and so on.

SELZNICK: Yes.

COTTERRELL: But did you find Pound attractive in a way because he did put-- he was putting these things together: values and a bit of social science, and maybe *groping* towards something?

SELZNICK: Yes, I think that’s true. I think Pound-- well, in the first place, there’s a lot of continuity between Pound and the legal realists, but he seemed to me to have a very-- you know, I’ve sort of forgotten about it now, but rather trenchant things to say about changes in basic legal ideas. He was trying to show the connection between law and social interests. That was a major theme. He provided a way of thinking about the role of authority in law. I’ve often quoted a sentence of his, where he talks about the law as made up of these various elements that are all authoritative....

So that, without making a big fuss about it, he understood that there were institutions or principles, that the law did not involve only a single element but had diverse authoritative doctrines. And I think in some dim way, not a wholly explicit way, he understood that there was a lot of variation in the authority of legal doctrines, rules, institutions. That to me was important.

COTTERRELL: Somehow I never thought of the connection before, but [Pound’s] jural postulates are the ultimate values of law--

SELZNICK: Yes.
COTTERRELL: And then, in a different way completely, that [concern with legal values] becomes a major theme of your sociology of law.

SELZNICK: Yes, right.

COTTERRELL: And Pound’s attack on legal positivism--

SELZNICK: Right. I think that’s true.

COTTERRELL: I guess you have very trenchant views on that, too.

SELZNICK: My sense is-- the people I’ve talked to, like my friend, [Sanford] Sandy Kadish, if I mentioned Pound some years ago, he just turned up his nose. I think the contemporary people who are philosophically oriented don’t like him because he doesn’t seem rigorous and he’s not making all these fancy distinctions and so on and so forth. I think that’s misguided. I think he did really have a lot to say if one wanted-- It’s a big mistake anyway, I think, from the standpoint of scholarship, to engage in these gestures of dismissal. Very often we find, well, we better take another look--

COTTERRELL: Yes.

SELZNICK: --and see what people have to say.

COTTERRELL: Okay. So by 1959 you were in a position to set out a program for sociology of law.

SELZNICK: Remember, this was 1957. This 1959 essay [“The Sociology of Law”] was published in 1959, but it was actually a paper delivered in 1957.

COTTERRELL: So this came out of your period in Chicago?

SELZNICK: I can’t remember when I was working on it, but maybe I was doing it then. But I happened recently to look into this, and I was surprised, myself, at how early it was. The Merton volume came out in 1959, but these essays, all of these papers were presented at the 1957 meeting of the ASA.

COTTERRELL: Right. Yes.

SELZNICK: So you have to figure I was thinking about this in 1956. All during those years, I think, after I came to Berkeley, I was kind of preparing myself to be able to say something about that. And then, rather quickly afterwards, I worked on that notorious paper on natural law.

COTTERRELL: Yes. There’s a lot to say about that. But the three stages of sociology of law that you set out in the ‘57/’59 paper, the people you’ve mentioned-- they appear at the pioneer stage. Pound is there and the legal realists and the early European sociologists of law. And then you talk about the muscle-flexing stage, sort of exploration in depth. And then the third stage of true intellectual autonomy and maturity and so on. [Reads]: “The sociologist goes beyond... the stage of technician or engineer and addresses himself to the larger objectives and guiding principles of the particular human enterprise he has elected to study.” So that third stage-- I read that as translating what you’d been doing in the sociology of organizations directly to law, in a way.
SELZNICK: Yes, I think that’s fair.

COTTERRELL: The other thing that strikes me about this is that it’s an incredibly optimistic paper, I think. There’s a quote here. You said, “In a broad sense, there is no real problem of articulating social inquiry to the needs of legal development. Sociology can contribute most to law by tending its own garden.”

SELZNICK: Right.

COTTERRELL: “Truly sound knowledge regarding basic human relations and institutions will inevitably find its way into legal doctrine. Truths so well founded that no reasonable, educated man can deny them need no special means of communication beyond the ordinary channels of education.” You were thinking, at least at that time, that sociology could produce knowledge which could just feed into law.

SELZNICK: Yes. I was a maybe a little over-optimistic, but I don’t know, what do you think? It seems to me it’s in principle right. I guess I may not phrase it quite so strongly, but-- you’d have to think about, maybe quickly say, “Well, there are a lot of obstacles, but--”

COTTERRELL: You didn’t think there was anything intrinsically in legal processes, in the legal system to resist all of that?

SELZNICK: Well, I wouldn’t have denied that, but I would have said the resistance will be overcome. Maybe the model that I had in mind was the impact on the Supreme Court and the race cases, not of the particular studies that they cited but the broad sweep of educated opinion about the irrelevance of race differences. I mean, that understanding, insofar as it was made more systematic and so on, you couldn’t--it would have its impact on the law. And I think you could say that of many other things as well. I think that maybe sociology hasn’t really pursued it all that well, but there are important truths about family life which could not be ignored by family courts. If sociology did its job well, there would be things that would affect problems of equal justice for men and women. I think that if sociology did its job well, we’d have a different attitude, different ways of thinking in the law about the modern corporation. So in a broad sense, using the broad stroke sense, I think that optimism is justified. What I was trying to say was you don’t necessarily need a sociology of law to get sociology recognized in the legal world. The legal world inevitably has to be open to at least the major things that we find; otherwise it would be, anyway, kind of wrong just to say, well, because we’ve done such-and-such a study, that this is what’s going on.

COTTERRELL: Yes. I tend to agree, but there obviously is a very powerfully articulated, opposite position, isn’t there?. In these days, it’s autopoiesis theory and all of that: [the idea] that law has its own language and has its own discourse, which in a way is designed to filter out influences from outside or to reinterpret them in its own way, so sociological knowledge is not going to enter law in any direct way.

SELZNICK: That sounds like [Niklas] Luhmann.

COTTERRELL: Yes.

SELZNICK: Well, yes, that certainly is a different-- and without even bringing into that thesis general questions of systems theory, one can certainly identify the institutional obstacles to incorporating
sociological knowledge. But I guess I was thinking about major findings of social science — it would not be just sociology but social science. It seems to me insofar as they really are well established, they’re going to influence the law, despite these obstacles.

COTTERRELL: Maybe in a way there’s a sort of cultural thing here. The American legal system in some ways is a very open system, a very argumentative system.

SELZNICK: Yes.

COTTERRELL: It’s not true of many other legal systems.

[End Tape 5B. Begin Tape 6A.]

SELZNICK: [What we may have] here is more optimism, an apparent optimism about the coherence of social science in that what we have, in fact, is a great deal of incoherence, so it’s not really clear what these results are, and therefore it’s much easier to go against them or to treat them as matters that people can disagree about. And I think that’s really what’s happened, it’s that we don’t have a strong statement about what the social science findings are, or we might say it’s much harder to say what the practical relevance might be of knowing certain kinds of things.

In organizational theory— there’s much in the business world that interferes with the application of sociological ideas, but there’s much that is open to them. Insofar as you’re dealing with a system which depends on high levels of initiative and commitment to work and so on, I mean, the sociology of human relations is going to find its way into business. It’s useful to translate that, but you know it’s going to be translated in some way or another, in different ways.

But I think the paper is optimistic also in another way. I think it was meant to be optimistic. It’s a programmatic statement which offers vistas, and so you say, well, we can probably do a lot of these things, including contribute to the great issues of jurisprudence.

ROGER COTTERRELL: And, of course, you’d written this at a time when sociology of law, law and society, wasn’t institutionalized at all, really, so the questions about how it would all work out in terms of relationships between disciplines were still for the future.

SELZNICK: Right.

COTTERRELL: Well, I just wonder whether there was anybody else who was around at that time who was doing anything comparable. Were you working entirely on your own? You just decided that law was a way to go with sociology? You were just getting on with it in your own way?

SELZNICK: Yes. Well, historically I wasn’t alone. I certainly was aware of the fact that there were a lot of interesting things that people of older generations had to say about sociology and law. I didn’t make enough of a point about that there.

COTTERRELL: You mean the classics.

SELZNICK: Yes.
COTTERRELL: Yes, Durkheim and Weber and so on, yes.

SELZNICK: Yes.

COTTERRELL: But here in the States--

SELZNICK: Not only Durkheim and Weber but other people, like [Henry] Maine. There was a pretty good list of people who had done work that was clearly on the borderline of sociology and law.

COTTERRELL: Yes. And many were very neglected figures.

SELZNICK: Yes.

COTTERRELL: Willard Hurst was doing something-- I can’t think exactly when he started writing on social history of law, but that was also around this time, wasn’t it? But that was completely separate?

SELZNICK: Yes. I was not really aware of that until later. But I certainly felt, when I was aware of it, that he was on the right track, doing the right things. He was interested in the things that sociologists should be interested in, the deeper role of the law in facilitating transactions and things of that kind. I think he used this phrase I like and I’ve often used, about the release of energies. That seems to me important.

But I think the paper was just too optimistic about sociology and social science. I mean, here we have so many discordant voices have been raised now, and people have a hard time putting them into context. You have rational choice theory and so on and so forth and some of these postmodern arguments. It’s hard to come up with real clarity on that, although some things do stand out.

I think there is a close connection between the broad intellectual tradition of which sociology - and social anthropology - was a part-- which has been something that could not be ignored when issues of human rights were raised. The whole idea of humanity as both one and many. I mean, this is a basic idea which has had a lot of influence, without anybody having to or being able, really, to work out the detailed logic.

COTTERRELL: Okay. Now there is the difficulty to choose which direction to go next [in our conversation], whether the institutional route or the ideas route, but I think we should talk about the founding of the Center for the Study of Law and Society, and then come back to talk about “Sociology and Natural Law.” So this is 1961, when the Center was set up.

SELZNICK: But, remember, these dates are always a little misleading because we formed the Center in 1961, but I was working on the formation of the Center a year or so earlier. Some of the time I spent at the Center for Advanced Study of Behavioral Sciences in 1960-’61--I don’t know how much time, probably not much, but I did get involved with some negotiations with the Russell Sage Foundation. There was somebody, actually, who had a name very similar to yours, Leonard Cottrell.

COTTERRELL: Yes.

SELZNICK: Do you know who he was?
COTTERRELL: I know the name, yes.

SELZNICK: Social psychologist. Anyway, that was his bailiwick. So we’re talking about 19-- I don’t know when I got the idea of forming an organized research unit, but it certainly must have been in 1960. It all happened rather quickly: I wrote this paper, I wrote the paper on natural law. That appeared in 1961, so, again, I was probably writing that in [1960].

COTTERRELL: How did the idea of the Center form, then? I have the impression at the moment that you were working on your own with sociology of law. Was this entirely your idea, which you then went out and pushed, or where there other people who were involved?

SELZNICK: I don’t think there was anybody else involved. I may have forgotten somebody. There were people I tried to get involved. They lent a little-- I guess one of the people who lent his or shed his grace on the project was Frank Newman from the Law School. I think at that time Frank was dean of the Law School. He had an active interest in all this, and he was very supportive, although he didn’t really participate that much. He had his own obsession with international human rights problems.

COTTERRELL: Were you busy talking to the Law School about it, or trying to get the Law School’s support?

SELZNICK: Most of the Law School, no, because you could tell immediately there wasn’t a lot of interest there. Frank was interested, Frank Newman. There was a person, who was a law person but he was not in the Law School. I know him very well, but his name is escaping me at the moment [Jacobus tenBroek]. I’ll think about it. This was a very remarkable man, who was blind. I mention him in various places. He was chairman of the Academic Freedom Committee during the time of the FSM [free speech movement] crisis. He’s written on equal protection, on poverty law, and things of that kind.

Anyway, he was interested in what we were doing and agreed to serve on an advisory committee, but I really think this was pretty much of a solo--

COTTERRELL: So it was sort of a leap in the dark, in a way? You wanted to set something up, and then it would attract people and you would get more people involved?

SELZNICK: Yes, that was the idea. But remember, it had one thing going for it, and that is some support from the outside. I had commitments, I think, for three years of at least modest support from the Russell Sage Foundation, and also a smaller amount from something called the Walter E. Meyer Foundation. So those two grants provided a kind of leg up. Without that, nothing could have happened, I think.

COTTERRELL: So Russell Sage must have already been convinced that law and society was a good thing.

SELZNICK: I think so. I think they were starting to support people in other places, too: I think the Yale program, and maybe they gave money also to Madison, more or less at the same time, so I was not doing this without any kind of support. But locally, on the campus, to begin with it was very difficult. There was very little--
One of the people who joined up quite soon, though, because he came on the campus soon, was somebody from the Law School, and his name you may know, Caleb Foote. Caleb was very much involved and very much a part of the Center. He actually had his office at the Center, too.

COTTERRELL: Where was the Center originally?

SELZNICK: Right down the block. It was a smaller house. I think it was 2224 [Piedmont Avenue].

COTTERRELL: So at this time, then--

SELZNICK: A few houses, about four or five houses, north of where we are now.

COTTERRELL: At the time you approached Russell Sage and you were gathering funds, were you also in touch with the things that were beginning elsewhere, like in Wisconsin and Yale? I'm trying to get a sense of how isolated you really were in doing this.

SELZNICK: Well, I don’t think I was entirely isolated. I think I was in touch with various people. I can’t remember exactly the details, but I remember having a meeting with Richard Schwartz at an early stage. I remember he seemed glad someone like me was interested in this, but he already had some interest in that.

COTTERRELL: Yes, because he had written that piece on the kibbutzim [in the *Yale Law Journal* 1954].

SELZNICK: Right. He took a big interest in the movement generally.

COTTERRELL: What exactly were the aims, then, in setting up the Center? What were you hoping for initially?

SELZNICK: I was hoping for a more focused and more collaborative setting within which a lot of interesting conversation could go on and some good projects develop, within a supportive environment. I think what I had in mind was more or less the traditional role of an organized research unit. How I knew about this is another question. I suppose some weight should be given to the fact that I knew Clark Kerr pretty well. As a matter of fact, I think for some years after I came to Berkeley, people sort of perceived me as one of Clark’s people. It really wasn’t true.

I probably had some confidence that if I proposed something, it would be taken seriously. That did happen. You also have to remember that for some years, the University didn’t put up any money.

COTTERRELL: Right. It was entirely outside funding.

SELZNICK: Yes. The University gave us space, gave us the building, after the first year. The first year, I think, we were renting an office. It was a building on the corner of Channing Way and Telegraph Avenue.

But there were other things happening, too. I think that’s when [Jerome] Jerry Skolnick showed up. I think from the beginning, I felt this would not be practical unless there was money to support some
person who would be full time at the Center. And so I knew about Shelley Messinger, and I recruited him for that job, to be vice chairman of the Center.

COTTERRELL: Oh right. He wasn’t already here.

SELZNICK: No, he was-- I don’t know where he was. He was in Los Angeles.

COTTERRELL: Was this within the Sociology Department or a free-standing institute initially? Was it completely free-standing?

SELZNICK: Essentially. I mean, certainly vis-à-vis the Sociology Department. No formal connection with the Sociology Department or, indeed, with the Law School. We had this system of so-called organized research units, which in those days-- I think there have been changes in recent years I haven’t kept up with, but in those days, [they] basically reported to the dean of the Graduate Division. Yes, free-standing.

COTTERRELL: Did you have to go through the Sociology Department to do this?

SELZNICK: No.

COTTERRELL: You just sort of bypassed [the] Sociology and Law [Departments] and went direct to Clark Kerr?

SELZNICK: Well, whoever. I don’t remember. It had to go through some committee and things like that.

COTTERRELL: But with the Sociology Department’s support?

SELZNICK: Oh, yes. I don’t think there was any question about that. People were generally supportive, but there was no formal connection. Now, of course, in the early years, since most of the people involved were people from - like, graduate students - sociology and, I think, political science mostly. And then, of course, we began to have all these foreigners come.

COTTERRELL: I wanted to get a good sense of the structure of it. You said Jerry Skolnick and Sheldon Messinger came in. In what capacity did they come in?

SELZNICK: In the case of Messinger, he was appointed--I can’t remember the technical term, but in some kind of a non-faculty, academic appointment, but full time. That was his only campus appointment.

COTTERRELL: Actually in the Center?

SELZNICK: In the Center. We cooked up this title of vice chairman. So he was the person there, and he helped to hold the thing together a great deal that way, partly because of his own personality, which was very supportive of students. Liked to talk to people and things like that.

Then we had Jerry [Skolnick]. I can’t remember now. Did Jerry start out-- I mean, he was on the faculty somehow, maybe in Sociology. I can’t remember. Or maybe in Criminology. Maybe he came in
from Criminology. I can’t remember now, in fact. But he was a faculty appointment, but he was interested, so he quickly became involved in the work of the Center.

As I said, Caleb was in the Law School. His field also was criminal law, mainly.

So you had a couple of faculty members who were sort of part-time associated with the Center and the only person who was full time was Shelley.

COTTERRELL: So the physical situation of the Center-- Sheldon Messinger had his office in the Center, in this building that you got.

SELZNICK: Yes.

COTTERRELL: And what about you?

SELZNICK: I had an office there, too. But I had two offices. Until I became chair of the Department, I think my only office was really at the Center; I didn’t use any other office. When I became chair of the Department, then I had an office in the chairman’s office in the Department of Sociology. I may have had an office for a while in Barrows [Hall] of my own. I can’t remember exactly, but that might be.

COTTERRELL: So otherwise, people would be physically located in the Law School or Sociology Department?

SELZNICK: You’re talking about faculty now?

COTTERRELL: Yes, faculty.

SELZNICK: Yes. Caleb made the Center his home, and the only office he had really was at the Center. It was a smaller building, but it had space. The office that I had in that building also doubled as a kind of seminar room. We used that also for the bag-lunch meetings and so on, which turned out to be a much more important institution than I realized at the time. And then we had spaces for Jerry and various other people who came from time to time, and some students who were working on dissertations and things like that.

COTTERRELL: So what would be the kind of visible activities of the Center from the beginning? What would be happening in this building that you got?

SELZNICK: I think we started very early to have these bag-lunch meetings every week. I tried very hard to-- well, Shelley was in charge of that. I was keen to have people focus on discussion and keep these presentations down to about twenty minutes. It didn’t always work. [Laughs.]

COTTERRELL: It never does, yes.

SELZNICK: But it did work on the whole. Otherwise, it was just a place where people - students and a couple of faculty people - did their work. Quickly, other people came in, like Philippe Nonet. He quickly knew he was interested in sociology of law, so he became a fixture around the Center.

COTTERRELL: He started out as a graduate student, didn’t he?
SELZNICK: Yes.

COTTERRELL: And I’ve got Geoffrey Hazard as well, from the Law School, [as being] at some point involved.

SELZNICK: At some point, yes. Hazard was involved, too, in the original planning of something that didn’t work out too well. It was called the Civil Justice Project. Then Geoff left, which left that a little high and dry. But yes, he was involved, too. Not too-- It took a long time before there was really much involvement with the Law School. The Law School itself had to be transformed somewhat.

But then at some point, the Kadishes [Mortimer Kadish and Sanford Kadish] took an interest, and we got some kind of a grant that helped support the work... There’s a very interesting book that Kadish and his brother did.

COTTERRELL: *Discretion to Disobey*.

SELZNICK: Yes, *Discretion to Disobey*. I’m sure there are many things I’ve forgotten.

COTTERRELL: Where did the graduate students come from initially?

SELZNICK: There were several from Sociology, I think, and also from Political Science. There were several people from-- yes, mostly that. One of the people who was involved we’ve forgotten about is Jerry [pause]--

COTTERRELL: [Jerome] Carlin?

SELZNICK: Carlin. Carlin did have an appointment in Sociology.

COTTERRELL: Yes, he came about ‘64, I think. It was a few years later.

SELZNICK: Was it? A couple of years later. So he was around, too, for a while. And then we had some of these younger people. This might be a little bit later. Harvey Sachs, for example. The beginnings of at least the Berkeley wing of the ethnomethodology group was started there. When Harvey came to Berkeley, I said, “Oh, gee, this is a really good person,” because he had been to law school. But he wasn’t really interested in that, although he did work with me for a while on the Industrial Justice Project. I think I mentioned that he came up with one of the phrases that I used there, prerogative contract. It really was Harvey’s idea.

COTTERRELL: Then there was David Sudnow studying ‘normal crimes’.

SELZNICK: Yes, there were three of them. There was David Sudnow and Harvey and [pause]--

COTTERRELL: Aaron Cicourel?

SELZNICK: Not Cicourel. Well, Cicourel was on another campus, anyway.

COTTERRELL: Yes.
SELZNICK: No, I’m thinking of a guy at UCLA. Not Jeff Alexander. Oh, I’ve lost his name. Anyway, there were these three young men, and they were very taken with Harvey and with this whole ethnomethodology thing.

COTTERRELL: I can’t remember where Harold Garfinkel was.

SELZNICK: He was at UCLA.

COTTERRELL: Oh, just down the road. [chuckles.]

SELZNICK: It was a real cult. I mean, they came with these unpublished papers, insisting-- trying to get-- we had whole series of meetings at my house with this group. They had high hopes of winning me over, but that didn’t happen. There were these sort of sacred documents that were being passed around. There was a lot of very cultic talk.

COTTERRELL: What do you mean, sacred documents?

SELZNICK: Well, like, there would be a couple of pieces that Harold [Garfinkel] wrote, and they would be passed around in mimeographed form, as if this was the revelation.

COTTERRELL: The latest thing.

SELZNICK: Things like that. And it was kind of nice. It was interesting. I enjoyed the boys. Harvey was a charming guy.

[End Tape 6A. Begin Tape 6B.]

COTTERRELL: [Talking about work on sociology of deviance at the Center for the Study of Law and Society] David Matza, yes. He was involved with that?

SELZNICK: Yes. One of the projects I think that Shelley was particularly interested in had to do with this whole idea of so-called secondary deviance or the labeling theory in sociology. You know what I’m talking about?

COTTERRELL: Yes, yes.

SELZNICK: There was quite a lot of miscellaneous work done on that subject, but I was never happy with it because I felt that the guys were comfortable while they were showing that labeling takes place, but they weren’t much interested in examining how much or different kinds or how it varies or something like that. I think it had strong ideological flare to it, more or less the sort of thing that Howard Becker was writing, too. Howie was a good friend of Shelley’s. Shelley was quite interested in this kind of thing.

And everybody was very fascinated in those days by Erving Goffman, too.

COTTERRELL: Yes, I’ve got a list of people who were around in 1963, ‘64, when things were well under way. You were chair, and Messinger was vice chair. Jerome Carlin, Aaron Cicourel, Erving Goffman, Martin Golding from Philosophy, Geoffrey Hazard in Law, Jan Howard, Sociology.
SELZNICK: Yes, I remember her.


SELZNICK: Ruth Kornhauser, of course, had this interest in delinquency studies and things like that. She did an extremely interesting book about that. But Bill Kornhauser--I don’t know why his name is there. I don’t think he ever had much connection. Leo Lowenthal had some connection and tried to do something on--

COTTERRELL: Oh, yes, I wanted to ask you about that, because--well, maybe it’s a bit later, I don’t know--but wasn’t it philosophy, related to philosophy of law?

SELZNICK: Yes. He did some work, really, on the Greeks. I was encouraging because I wanted the Center to be a place with a lot of breadth to it, not just necessarily social science. But what he did was not very useful.

COTTERRELL: The reports talk about him working on a sociology of legal philosophy reader [collection of readings]. I thought, “Well, that’s a really interesting project.” But it doesn’t seem as though it actually happened.

SELZNICK: Nothing much came of it.

COTTERRELL: Yes. And then David Matza, he was in the Sociology Department.

SELZNICK: Yes, right, yes.

COTTERRELL: But quite involved with the Center.

SELZNICK: He was. He didn’t have an office there. I don’t think he did. But he came around a lot. I think he was more radical. He was not too happy with the somewhat more, relatively more liberal, establishment oriented [work]. So when Troy Duster started his institute, David went over there.

COTTERRELL: Which institute was that?

SELZNICK: It was called the Institute for Social Change. It was a product of the sixties thing.

COTTERRELL: I think of Matza as somebody who worked very much on his own, taking entirely his own line, really, in criminology.

SELZNICK: Yes. Yes.

COTTERRELL: And Laura Nader?

SELZNICK: Well, yes, Laura had some involvement, but she was a very difficult person, I felt. She was interested in law and anthropology and had done some work on that. I can’t remember exactly what her involvement was.
COTTERRELL: One of the [Center] reports says that Laura Nader was working on frameworks for the study of law in small-scale societies.

SELZNICK: Yes, there was probably some-- She was a member of the committee out of which the JSP [Jurisprudence and Social Policy] program came. She was the sole dissenter from the proposal that something be done in the Law School. She had, maybe still has, fairly strong anti-lawyer views. She felt that would be the ruin of anything, to put it in the Law School.

COTTERRELL: The whole structure, in a way, interests me a lot because you’ve got this center, which is sort of suspended. It’s not in the Law School; it’s not in the Sociology Department; it’s basically free-standing and allowed to get on with its own thing. And it attracts people in from law, from sociology, social work, other places, so they don’t have to, in a way, compromise their discipline or their allegiances at all.

SELZNICK: No.

COTTERRELL: But there must have been views floating around about how things should develop and whether it would be good to be closer to sociology or closer to law.

SELZNICK: I don’t think that was a big problem. The thing that I became more aware of was that these graduate students who were coming in to do work ought to have more legal background. I felt that some of them knew something about criminal law because of criminology or because sociologists’ interest in criminology inevitably-- you learn something about criminal law. And people from political science might know something about administration and constitutional law. But the basic ideas, like contract and torts and property and so on, were really an alien land to people. I felt that there ought to be a closer connection to legal education.

I mean, there are a number of projects we haven’t mentioned. Shelley was much involved with a project that reflected his own interests in corrections, which was a study that he did with Eliot Studt, who was a social worker, of a youth correctional facility in California. They spent a lot of time on that. A book came out [C-Unit: The Search for Community in Prison, published by Russell Sage].

COTTERRELL: The graduate students, were they registered as graduate students with the Center?

SELZNICK: No, they were registered as graduate students in their departments, but they were interested in work that was relevant to the Center. In some cases, they did master’s theses or dissertations and so on that were relevant to the work of the Center, but they were students in these other departments. We didn’t have any students.

COTTERRELL: That’s what I thought, yes.

SELZNICK: Yes. At least for the first few years. At one point, fairly late, I think, we created a master’s program, an interdisciplinary-- We had that opportunity on the campus to create an interdisciplinary master’s program. That was administered by the Center.

COTTERRELL: Was that a taught master’s program with taught courses, or basically a research master’s?
SELZNICK: It was basically research, but it did have course requirements people had to take. There were several people, I think, from the Law School who were involved with that. That included, most famously, Gunther Teubner. Gunther was part of this group, and several other people. I don’t know how many people. That didn’t last that long. I mean, I think that was more in the later stages, when I felt it would help the work of the Center to have this teaching function or to have people involved who were studying for a degree and not necessarily in one of those departments.

COTTERRELL: So in terms of what the Center was offering, it was a place for researchers from different disciplines to meet and engage together in discussions, the bag-lunch thing and so on.

SELZNICK: Right.

COTTERRELL: What else was going on? Seminars? What else was holding people together in the Center and making the Center a place to be for them?

SELZNICK: I don’t think it really needed anything besides the conversations among people, the interest people took in their work, the independent work that was going on; and these weekly meetings which were well attended and, I later learned, were greatly appreciated. I think that’s really all that was involved there. You had this mix of faculty and students. In that setting, people were much more concerned about each other, more interested and much less anonymous than, say, a graduate student in political science or in sociology, even, where there are large numbers. They don’t have any place to be. They have fragmented contacts with selected people. They don’t talk to each other very much. This was a home.

COTTERRELL: Yes, right. So they would spend a lot of time in the Center, hang around and engage with others?

SELZNICK: Right.

COTTERRELL: I was going to say served a need, but that’s not quite right. It obviously found a vibrant life very quickly, didn’t it? Many people came in very, very quickly.

SELZNICK: Yes.

COTTERRELL: And got involved.

SELZNICK: I think that’s true, right. I think you could probably say-- I don’t know how really true it is-- that this was not the only one. Many of these organized research units on our campus served that function. The departments are too big, too impersonal, too miscellaneous, and the organized research units provide a focus for people who have shared interests, at least in some broad issues and topics, and also a place to be, a place to work. If you’re a graduate student particularly, normally you don’t have anyplace. You are just in the library.

COTTERRELL: Yes. And the Center had funding. It could give funding to support--

SELZNICK: [Interrupts.] Oh, yes. An important function that we had was to provide money for research assistants, but these were understood to be graduate students. I sometimes felt a certain problem about our role, because from the point of view of research, it might be better if we were an off-campus
facility hiring students to do particular things that you wanted done. But that’s not what was going on. We were professors, and it was up to us also to help facilitate the development intellectually of these people, not just get our work done, and to encourage their creativity and originality and so on.

These things don’t always work together. If you want students to break new ground in the work that they’re doing, that doesn’t mean that they are going to fit all that very well in just gathering data for some special project. So I think there was a lot of that. I felt a little discomfort about that, but I didn’t have any doubt that there was only one thing to choose: you had to care about the people.

COTTERRELL: Yes. But, I mean, the students didn’t need to be there. They could have stayed in their own departments.

SELZNICK: Yes, but they wouldn’t have been any better off particularly in their own departments.

COTTERRELL: I’ve got other names. You wrote a memo to J.A.C. Grant in 1966, setting out what the Center was doing.

SELZNICK: To whom?

COTTERRELL: Grant? J.A.C. Grant.

SELZNICK: Sounds familiar now, but I can’t remember who it is.

COTTERRELL: I can’t remember offhand, but—It listed people who had been helped by the Center at that time. There’s Reinhard Bendix, Joseph Briar, and Jerome Carlin. Gerhard Casper.

SELZNICK: Oh, yes, he was in Political Science. He became president of Stanford University ultimately.

COTTERRELL: And Aaron Cicourel. He was at Santa Barbara.

SELZNICK: Yes. I guess he came in because of Shelley. There was some project— I’ve forgotten, now, much about it— but he was involved. It again had to do in general with this labeling theory.

COTTERRELL: So this reached out beyond Berkeley. Or it could do, in principle?

SELZNICK: Oh, yes. That was easy to do, sure.

COTTERRELL: I mean, this was Berkeley funding— Oh, no, it wasn’t Berkeley funding, was it? It was external funding, the funding you were using.

SELZNICK: At some point, the University began giving us a small amount of core budget, maybe in the fourth year or something like that.

COTTERRELL: And Jacob Finkelstein in Assyriology.

SELZNICK: [Chuckles.]
COTTERRELL: I don’t have any more information than that. Obviously, you were covering a pretty wide range.

SELZNICK: Well, we were very interested in trying to get whoever might be interested, to get them involved. I certainly was interested in having this be a-- have as much breadth as possible and reach out to the humanities and so on. I mean, it wasn’t all that easy to do, but here and there, there would be some way, some expression of interest. Maybe somebody would get a little help for a little project or something like that. We usually were happy to do it if we could, because it was all meant to develop the whole theme.

COTTERRELL: Yes. So you weren’t really worried about having a strong thematic focus. You could cover anything.

SELZNICK: Yes, that’s right. I don’t think there was any real-- within the law and society thing-- any special thematic focus that we wanted. It could cover anything from criminology to social advocacy. I mean, all kinds of things that people were interested in. Some aspects of poverty law, things like that.

COTTERRELL: Yes, Irving Piliavin and people like that.

SELZNICK: Piliavin. He was in Social Work.

COTTERRELL: Yes, yes. And then there are some others. Oh, Edwin Lemert was at Davis, wasn’t he?

SELZNICK: Yes.

COTTERRELL: That’s another outsider.

SELZNICK: Yes, but Ed-- the main contribution really had to do with this-- what he called secondary deviance, the labeling theory, too. He had been at UCLA. We knew him from there. And Shelley certainly knew him.

COTTERRELL: And Philippe Nonet was finishing his doctoral dissertation on “Administrative Justice” in the mid-sixties.

SELZNICK: Right.

COTTERRELL: It was a study of the California Industrial Accident Commission.

SELZNICK: Right.

COTTERRELL: And then he joined in as-- or was he already a colleague, really, at that time?

SELZNICK: No, I think he got his Ph.D. first, and then he was appointed as an assistant professor in sociology.
COTTERRELL: And then you had all these visitors from various places.

SELZNICK: Yes. That was something that was happening. That was probably one of the most important things that happened, that we had so many visitors. We had a lot of visitors from Holland. A number of people came from Holland, Germany, Japan, places like that. And I didn't realize what was happening, but in later years, I realized this was building a kind of a strong cadre of loyal supporters and people who would sustain their interest over many years. Of course, in time, they all— not all of them, but most of them became academics in their own countries. At least, from what I had heard of, they always had very good memories of their time at the Center. But while it was going on, I didn’t think much about it.

COTTERRELL: So you had funding to bring people over, say, to keep them here for a semester or something like that?

SELZNICK: I don’t know, but it must have been something, I guess. I think they came with their own money. Probably I wasn’t aware of it myself at the time, but the founding of a center for the study of law and society was perceived in other places as an important event.

COTTERRELL: Yes.

SELZNICK: I didn’t quite see it that way, but— And so people were drawn to it. People heard about it. I think Philippe— I remember I got a letter, a little letter from him right after we established the Center, in which he mentioned something about his interest. I guess he had read my “Natural Law” piece. He was interested in coming as a student. He was just a younger. A number of the people came over. One of them who was mostly interested in criminal law, and had a close connection with Caleb— was another Dutchman who had been in Indonesia. He came over: [Antonie] Toon Peters.

COTTERRELL: Oh, yes, yes.

SELZNICK: And Toon told me in later years that this was a very important experience for him. I hardly knew him, or at least I didn’t think I knew him that well, because I sort of said, “Well, he’s working with Caleb; I don’t have to worry about him too much.” But that’s not the way he saw it. So he had a very—

COTTERRELL: Yes, I’m sure people did. The sense I have is that there were people in a lot of countries who were working in a very isolated way, getting started with some kind of social research on law. I know in Sweden— I have a good friend there, Per Stjernquist, who was starting a seminar on sociology and law around this time.

SELZNICK: Wasn’t [Vilhelm] Aubert also—

COTTERRELL: Yes, in Norway. That’s right, yes. So these people were doing this. And this would be like a beacon in a way, wouldn’t it?

SELZNICK: I guess so. It wasn’t meant to be, but that really was true, I think.

COTTERRELL: And Jerome Skolnick’s Justice Without Trial project was going on at that time as well. It gets mentioned in the report.
SELZNICK: Right. Yes, that’s probably one of the more important things that we produced at the Center.

COTTERRELL: Yes, because that had a lot of offshoots, didn’t it? Not just the book that he produced, which is a great book, but a lot of other things around it, in criminal justice.

SELZNICK: Yes. I forget what year-- it must have been a little bit later, Jerry was a kind of staff director or research director for-- you remember we had riots in the late sixties, race riots around the country. A commission was established to study these riots, and Jerry had some kind of an important job in connection with that, and so that work was done more or less at the Center, too.

COTTERRELL: Yes. Oh, yes, and there was a report on the free speech movement period, wasn’t there, which the Center sponsored, actually. Terry Lunsford’s report, The Free Speech Crisis at Berkeley 1964-5. The subtitle of that is “Some Issues for Social and Legal Research,” so it was looking at it from a legal angle.

SELZNICK: Yes. Terry was a lawyer who was also interested in higher education. He came out of the education world. Yes, he did that. He did that work.

Of course, Caleb during that period, too, was actively involved as a major author of a book on the governance of the University, which was, in part, work done by people at the Center. There was some kind of a joint student-faculty committee, of which Caleb was chairman, which had to do with that sort of thing.

I guess the answer is the basic picture is one of a somewhat questing, miscellaneous effort to see that some work would get done and that there was some effervescence of student and faculty participation and interest, to create some locale where this could be taken seriously and maybe something else would emerge from it.

COTTERRELL: And did it exist-- I mean, I know that the structure changed with the JSP, when that came along, but in the sixties, did it exist fairly comfortably within the University? I mean, I was just wondering what the attitude of the Law School was to this eventually, whether they were quite happy with all this research related to law going on outside their remit completely.

SELZNICK: I think mostly they didn’t care one way or the other.

COTTERRELL: [Laughs.]

SELZNICK: I never detected any sense of unhappiness particularly. I think maybe there were some people in the law faculty who felt that we were upstarts. What the hell are we doing in their bailiwick? But on the other hand, the law faculty was changing very much. New people were coming in, younger people, people with more academic qualifications and interests, people with broader ideas, and all that was going on during the same period.

COTTERRELL: You think there was a growing sensitivity to social science?

SELZNICK: That too, more acceptance of it, more connections between the Law School and what they used to call down-campus; less isolation of the Law School, more Law School people taking a very active
role in the Academic Senate. Basically, less isolation. The isolation of the Law School was breaking down, but the corollary of that was a transformation in the interests and outlooks of people on the law faculty: less parochial, more open to other ideas and so on. I don’t want to exaggerate that. I mean, it could be easily exaggerated, I think. A lot of people were not so open.

COTTERRELL: But it was beginning to happen not just here but probably elsewhere in the States and abroad, in Britain, too.

SELZNICK: Yes, right.

How are we doing on time?

COTTERRELL: We’re just coming to the end of the tape. I just wanted to mention one or two other names later: William Muir, Political Science. That’s in the seventies, he shows up in the reports.

SELZNICK: Oh, yes, Sandy Muir, William K. Muhr, yes. I can’t remember when he was involved. It was probably something.

COTTERRELL: School prayers, was it?

SELZNICK: Oh, that could be. He was-- he is-- he’s still in the Political Science Department. In his case-- he’s a very interesting man, very sensitive, thoughtful person. A Republican. He had written quite a lot about state government and the state legislature and things of that kind.

COTTERRELL: Yes. And then just finally-- I’ve just got a list of themes that were being developed in research. I’m just amazed at the range of things that were going on, from the beginning, early on, in the sixties. It lists “Social Foundations of Legality,” that’s obviously your thing; “Law as Creative Government”; “The Rule of Law,” and so on; “The Adversary System”--

SELZNICK: Oh, yes. Some of this reflects my own sense that breadth was very important. We tried to do work on the adversary system.

[End of interview. End of Tape 6B]
ROGER COTTERRELL: So, we were talking about the Center [for the Study of Law and Society]. I made out a list of the books that were published from the Center, up to 1970. It was taken from some of the annual reports. I think we talked about quite a number of these things, but I just wondered whether there was anything else to say.

Jerome Carlin was working on studies of lawyers, obviously.

PHILIP SELZNICK: Yes, that’s right.

COTTERRELL: There was the *Lawyers’ Ethics* book, a survey of the New York City Bar.

SELZNICK: Yes.

COTTERRELL: So that was probably the main thing he was doing.

SELZNICK: Yes, I think so, although he did do something else. He did something on social advocacy with this student, Jan Howard.

COTTERRELL: Jan Howard, yes.

SELZNICK: That was a somewhat different project. They published at least a paper on some aspect of poverty law and on advocacy for the poor. Actually, Jerry [Carlin], after he left the University— he was doing that for some time; he was a director of one of these legal assistance foundations that was using federal money, I think, very largely, for legal assistance.

COTTERRELL: And then there was the book by Carlin, Howard and Sheldon Messinger, *Civil Justice and the Poor*. That was 1967. Russell Sage published that. That was the culmination of a lot of that work. And then Cicourel published *The Social Organization of Juvenile Justice*.

SELZNICK: Oh, right, right.

COTTERRELL: 1968.

SELZNICK: Yes.

COTTERRELL: Corinne Gilb?.
SELZNICK: Corinne Gilb, yes.

COTTERRELL: Yes. That’s a name I don’t know, actually.

SELZNICK: No? She seems to have disappeared somewhat. She was in political science. I don’t think she was actually on the faculty here in Berkeley, but for some reason I can’t quite remember, she made contact with the Center. She had this project, and she got some support, I think, from us to work on—what was it called?

COTTERRELL: *Hidden Hierarchies: The Professions and Government.*

SELZNICK: Yes.


SELZNICK: *Delinquency and Drift* he had really done before he came here.

COTTERRELL: It’s mentioned in one of the early reports as a project. Oh yes, in the 1962 to ‘3 report of the Center. You said in the report that David Matza was completing the manuscript of his *Delinquency and Drift*.

SELZNICK: Oh. Well, maybe I’m mistaken about that.

COTTERRELL: And Erving Goffman’s *Stigma* as well, was just about to come out. And [Irving] Piliavin’s and [Scott] Briar’s research on the police, and that came out as a really important article in the *American Journal of Sociology*—“Police Encounters With Juveniles.”

SELZNICK: Yes.

COTTERRELL: And Sheldon Messinger’s *Strategies of Control*.

SELZNICK: Right.

COTTERRELL: And Philippe Nonet’s *Administrative Justice*. Oh, yes, we talked about that, ‘69. Edwin Schur. We didn’t mention him before.

SELZNICK: Edwin Schur?

COTTERRELL: Yes.

SELZNICK: He was a visitor here for a while.

COTTERRELL: His *Crimes Without Victims* came out in 1965.

SELZNICK: Yes.

SELZNICK: Is that when it was, ‘66?

COTTERRELL: Yes. And Jacobus tenBroek—

SELZNICK: That’s the person! I was trying to think of his name before, the blind [man]— Jacobus tenBroek, a spectacular man, a wonderful man. Oh! He had these terrible handicaps, but he just overcame them. He was in many ways a prominent person. He was a leader of the blind in California, and for quite a few years he was a member of the state-- I forget-- Commission on Social Service or something like that. And he was on the faculty. Somehow, for some reason, a reason utterly obscure to me [which] has to do with some kind of aspects of academic politics, he wasn’t located where he should have been in the Law School. He would have been a towering figure, of great importance in the Law School. That’s what he was. He was a lawyer, and he wrote a lot of things on the law.

But he taught for some years in what was then called the Department of Speech. It’s now called the Rhetoric Department. It was an interesting institution because it was a kind of a place where sort of miscellaneous scholars could be located when somehow they didn’t work out in connection with regular departments.

But I think tenBroek later on became a professor in the Department of Political Science.


SELZNICK: Werthman, yes.


SELZNICK: Yes. Carl was a student here, a graduate student in Berkeley.

COTTERRELL: And Skolnick’s *The Politics of Protest*.

SELZNICK: Yes. That was the thing he did in connection with that commission report. Does it say anything about that?


It’s an amazing list of books. I mean, there was a lot of work going on.

SELZNICK: Yes, yes, there was a lot going on.

SELZNICK: Right. We tried very much to involve everybody who could be interested, including someone like Laura. But Laura was very much unresponsive to, somewhat hostile to a lot of the theoretical discussion that went on. She didn’t like that. And she represented, you might say, one wing of a classic point of view in social anthropology, highly relativistic and, I guess I would say, in many ways anti-intellectual.

COTTERRELL: Really?

SELZNICK: Yes. I say anti-intellectual; perhaps I should say anti-theoretical.

COTTERRELL: I would imagine that you would have quite a lot of latent if not overt conflict about theory, because theory means such different things in different disciplines, and you welcomed in people from a whole range of disciplines.

SELZNICK: Yes, I think there was a certain amount of latent difference, even between Messinger and myself, I think. I think Messinger has never been very sympathetic or interested in the positive moral aspects of legal experience. He tends to take a much more skeptical and sometimes even cynical attitude toward institutions and practices and ideas. Of course, there’s a lot of value to that, so I don’t-- His great contribution, though, and it was a very great contribution, I think, in the Center, was his personal qualities and his intelligence and his ability to bring people out and to talk to them and help them with their projects and things like that. I think that was a very big thing.

COTTERRELL: Maybe this is a hard question to ask, in a way, but how important do you think your particular view of social science and its possibilities was for other people around you there? You had, as far as I could tell, a completely open idea. You’re not afraid-- You don’t need to put boundaries around social science and protect it; you’re quite happy to open it up to the humanities, philosophy and so on, and you were doing that.

SELZNICK: Yes. I think that was not an issue that was articulated very much. So I don’t know that there was any-- Actually, as far as a serious difference of opinion and outlook is concerned, the only one I can think of-- I mean, I knew about the difference from Messinger and, to some extent, some of the others who were interested in criminology and deviance, but it wasn’t very serious. I think with Laura Nader, it was more so. Partly it had to do with personality, I suppose, but a genuine feeling that-- she represented much more of what I considered to be the mainstream of positivist social science. You know, very uncomfortable with grand theory, not comfortable with it.

She once told me, Oh, she really liked what I did in the textbook, but why couldn’t I always write like that? You know, something like that.

COTTERRELL: So I suppose for her, the attraction of the Center was just law, a way of sort of being involved with law.

SELZNICK: Yes. It was a natural thing for somebody who was interested and had done work in anthropology and law to have some connection with it, but I don’t think it ever really worked out. She wasn’t really that comfortable, not just with me; I think with other people, too.
COTTERRELL: Yes. In other respects, the focus, the substantive focus on legality and so on, which we need to talk about more later, but that was presumably a kind of rallying point for quite a number of people, obviously for Jerry Skolnick, Justice Without Trial and Nonet and so on.

SELZNICK: Yes.

COTTERRELL: So would you say that that was a rather strong, unifying focus for some people in the Center?

SELZNICK: Legality is maybe not the right word for it, but I used that more or less as a synonym for the rule of law. But I think the idea that law had some important connection to other values—I think that was something that we were trying to foster in various ways in our discussions, and I think it was something fairly widely shared. And maybe if I hadn’t been around to press the point, it wouldn’t have been so.

I think probably Nonet was the only person who shared my views in depth. Everybody else had some-you know, “Yeah, okay.” Maybe they were just tolerant of me, putting up with me.

COTTERRELL: [Chuckles.] Did you feel that once you had set the Center up, it gave you a kind of much stronger intellectual home, although not everybody was facing the same direction as you--

SELZNICK: Yes.

COTTERRELL: --and sharing the same points of view?

SELZNICK: I felt that. I had mixed feelings because I wasn’t all that happy with kind of keeping an enterprise going and always hunting around for new opportunities to do something and so on, but basically I liked it. It was rewarding. And I think I found that I, myself, was interested in a wide range of things, so that even though many different topics were discussed at these bag-lunch meetings, it seems to me I never was bored. I was always interested in what was going on. In general, I was interested in the other projects. Whatever people were doing, I found interesting. So in some sense, I was a good person for that.

But, on the other hand, from the point of view of my own intellectual concerns, I might say of myself it might have been better if I had been a different kind of person: more authoritarian, more directive, more insistent on bringing people together who really shared a basic perspective. I didn’t have that view.

COTTERRELL: Why would it have been better? Because you’d have had disciples?

SELZNICK: Well, there would be-- I do have-- one side of me involves a quest for coherence, doctrinal coherence, for clarifying what the issues are and what we mean by it them, and distinguishing one point of view from another and things like that, whereas at the Center, I had a much more ecumenical approach to things. But, then, that’s another side of me. I do have an ecumenical attitude toward a lot of things. I don’t have to choose between quantitative studies and something else. It seems to me they’re both very important.

In the Department of Sociology, there was, for some years, some ideological split because some of the people, like Herbert Blumer, coming out of the symbolic interactionist, George H. Mead tradition, were
rather hostile to quantitative studies and wanted to be sure that sociological methodology that students were required to study should include broader things. Well, that was all very well, but I guess my view was that if students came to Berkeley, it would be more important for them, as graduate students, to learn quite a lot about quantitative methods than other things because that could be very useful to them, whereas everything else is just orientation.

COTTERRELL: Yes.

SELZNICK: So in that sense, I was more interested in the concreteness of— I wasn’t that interested in the polemical concern, even though I didn’t disagree with the idea that it should— there has to be more than that, and a proper approach to scientific method has to include more than survey research or demography and quantification, and that case studies were important and so on. Obviously, I would agree with that. But I was open to the idea that nevertheless maybe some centrality ought to be given to this aspect of sociology that prepared people for some technical work.

COTTERRELL: That’s interesting, because it sounds as though you were pointing in two directions, in a way. Maybe they join up, but on the one hand, you’re a sociologist. You’re still in a sociology department, and it’s a discipline, and it has its own methods and ways of doing things, and it’s important to train sociologists to go out in the world equipped to do what sociologists do.

On the other hand, you’re running this center, which welcomes in basically anybody who is interested in law seriously, from some social science point of view. So the people are coming in, and the students, too, presumably, are coming in with all sorts of different methods.

SELZNICK: Yes.

COTTERRELL: And earlier on, when we were talking, the only thing you said that you wished they had more of was more legal background.

SELZNICK: Right. That’s as far as the students in the Center. My comment about the Sociology Department really spoke to my reflection on myself as being unwilling to choose abstractly between these two alternatives, but rather to say, well, there might be good reasons why, let’s say, for the Sociology Department— I’m not talking about the Center now— for the Sociology Department to say that, at least for their master’s program, the kind of methods to emphasize would be these quantitative methods. Far from being hostile to quantitative methods, I felt, well, they may even be very useful for people who aren’t really going to go on to be scholars and so on.

But for Blumer, that really wasn’t the way he thought. He was more interested in the larger ideological message and the idea that you want to study society in a way that will get at the truth of it, and the truth was more fluid, had to do with more fluidity, more interaction, and all these other things, and these couldn’t readily be grasped by these quantitative methods.

But he was willing to allow that polemical posture within sociology to influence requirements for, let’s say, the M.A. degree. That didn’t make sense to me. The two things were different. And anyway, I certainly would agree that for many purposes it is important to do quantitative analysis because we like to know how much, not only that some thing is happening but how much of it is happening.
COTTERRELL: So really it’s a distinction between basic training, the sort of grounding that people should have, on the one hand--

SELZNICK: Right.

COTTERRELL: --and, on the other hand, being able to fly free of that when you get more experience.

SELZNICK: Yes.

COTTERRELL: Can we talk a little bit more about the students? We said a bit about them earlier. This is from one of the annual reports. I haven’t got a note of which one. It says, “Students participate in CSLS activities in a number of ways. Most prepare research papers on socio-legal topics, either as research assistants or with some other form of staff guidance. A number are engaged in preliminary work on doctoral dissertations. Further, CSLS invites graduate student participation in weekly lunch meetings.” Some of that we talked about before.

SELZNICK: Yes.

COTTERRELL: But they often wrote research papers on socio-legal topics, not necessarily directly for their doctoral research but...

SELZNICK: I think what we might have had in mind there was the papers that might be written in connection with someone’s work as a research assistant for a particular project. For example, in *Industrial Justice*, there was some work that people did-- I remember there was one young fellow who did work on analyzing the grievance arbitration decisions, various patterns, and that helped to further that work. It wasn’t used directly, but-- And other things that people wrote because it seemed relevant to some project. I don’t know, there might have been something else we had in mind, but I can’t remember.

Sometimes they were just independent papers that they did for courses or something like that. Like Harvey Sachs did a paper on the police. It was a very ethno-methodological paper, but it was on a socio-legal topic.

COTTERRELL: I know at this stage-- well, before the JSP [Jurisprudence and Social Policy] program was set up-- the Center, as such, didn’t have any ultimate control over the doctoral assessment of the students. This was still based in whatever departments they were in.

SELZNICK: Right, right.

COTTERRELL: And I’ve got some figures here. During 1964 to ‘6, eight had completed advanced degrees, eight students connected with the Center. Only one in law. That’s Ian Kennedy, who I think is the guy who’s in London now.

SELZNICK: It could be. Does it give his topic?

COTTERRELL: No. Sixteen students were participating in the CSLS program in 1966, including Kahei Rokumoto, Johannes Feest, Fred DuBow.

SELZNICK: Fred DuBow. He died.
COTTERRELL: And again, only two from law and all the rest from sociology. Oh, one from anthropology.

SELZNICK: How about political science? There was Mark Aronson, at least, in political science, maybe somebody else.

COTTERRELL: This is just a sample from one year. And then 1969 to ’70, thirty-one graduate students, including Elliot Currie, Howard Erlanger, Fred DuBow. And the figures: There are six from criminology, five from law, thirteen from sociology, three from political science, and one each from education, history, urban planning, and anthropology. So law was always very much in the minority?

SELZNICK: Oh, yes, absolutely.

COTTERRELL: Yes. It was hard to attract--?

SELZNICK: Well, ordinary law students it certainly would be hard to attract because they’ve got all they can do to get through the law program. And the ones that we did attract, like Gunther [Teubner] and probably Johannes [Feest], would have been in some graduate program, like an L.L.M. program or something like that, I think.

COTTERRELL: So the L.L.M. that you mentioned-- that was actually run by the Center?

SELZNICK: No. The L.L.M. program is part of the Law School. They still have that. That’s master of laws.

COTTERRELL: Yes, sorry. I know--

SELZNICK: But the M.A. program--

COTTERRELL: The M.A. program.

SELZNICK: There was an M.A. program for a while, yes.

COTTERRELL: Yes, and that was run by the Center?

SELZNICK: Well, I suppose technically there was some kind of a committee set up by the graduate division, but in effect it was really run by the Center.

COTTERRELL: Were you disappointed there weren’t more law students, or did you predict that, that would be what would happen?

SELZNICK: I was disappointed that there was not more law participation. I probably didn’t give a lot of thought to the question of law students, as such. I wasn’t that much interested in law students. I thought that as a research unit, we would be dealing mainly with graduate students, and law students are not really graduate students. I mean, technically yes, they are. They are sort of like undergraduates being put through a mill. It wasn’t exactly a disappointment because I knew what the situation was, but I had hoped for a little more active involvement on the part of the law people, yes.
COTTERRELL: Yes, I’ve got something from the 1973 to ‘74 report, which must be about the master’s program that you’d set up. It says, “A Graduate Program in Law and Society has emerged as a natural outgrowth of research, discussion, and widespread interest in the subjects discussed at the Center. The Graduate Program... is... interdisciplinary... designed to provide intensive cross-disciplinary training and research experience in the field of law and society. It is designed for law students who are interested in the M.A. in Law and Society in addition to the J.D. degree and for social science doctoral candidates, for whom it forms a substantial field of specialization within their Ph.D. program.”

SELZNICK: Yes.

COTTERRELL: So you were aiming at both sides with the master’s, yes.

How much administrative backup was there for the Center?

SELZNICK: How much what?

COTTERRELL: Administrative backup, support. You were there, and Sheldon Messinger was there, and a lot of people were coming in but weren’t actually based there.

SELZNICK: We always had a full-time secretary, an administrative assistant type. I don’t really know that there was much else. I think that was about it.

COTTERRELL: And then in 1969 the Center became a unit of the Earl Warren Legal Institute.

SELZNICK: Yes.

COTTERRELL: What was that?

SELZNICK: I think there were changes after that, too. The Earl Warren Legal Institute was something-- I don’t know how it originated, but it was set up within the Law School. In recent years-- actually, its only real staff member has been Frank Zimring, plus some help. It had its own budget of some kind. And then I think what happened was that as a kind of movement toward integrating the Center more with the legal community and the Law School, this nominal arrangement was established. It didn’t mean very much. It was just a symbolic thing.

COTTERRELL: But the Center previously--

[End of Tape 7A. Begin Tape 7B]

COTTERRELL: --[had been entirely separate from the Law School so this was] just a symbolic link between the Center and the Law School?

SELZNICK: I think so. I think that’s probably all that was.

COTTERRELL: Yes. Okay.

I wanted to ask you also what problems you ran into, running the Center in those early years. What were the hardest things to deal with?
SELZNICK: I think the hardest thing to deal with always was, as usual with these things, to get people really committed to some project that made sense from the standpoint of the Center and that would contribute to the life of the Center. And so that’s why-- a number of things didn’t work out. You hoped for the best; you tried to involve people. But they didn’t necessarily-- they had other things on their minds, or they weren’t suitable for this kind of thing. I think that was always the hardest thing, in addition, of course, to constantly thinking about possible additional resources.

COTTERRELL: Did that take up a lot of your time?

SELZNICK: I think it did, yes.

COTTERRELL: Getting funds, securing them?

SELZNICK: Yes. I think it did. It’s hard for me to be certain because during some of those years, I was wearing both hats. I was chairman of the Department of Sociology and of the Center. I was sort of walking back and forth between the two offices, trying not to shortchange either. I’m sure that this was a- - the points that I’ve made about the Center was a constant source of concern for me and, to some extent, of aggravation. But basically I felt good about it. I felt we were getting somewhere and that the Center was getting a reputation.

I had always to tell myself not to have exaggerated expectations. This was just a human group, with frail human beings. What can I do with it? And you shouldn’t expect some great thing is going to happen out of it.

COTTERRELL: Was it taking you away from the Sociology Department in the end?

SELZNICK: Yes, I think so. Well, as chairman of the Sociology Department, I was very much involved in it, of course, but I think the basic fact is that this whole interest in law and society was taking me, as it did many other people, away from strictly sociology of law. I would say that-- I don’t know if this is true in Britain, but in this country, I think this quick development of the law and society movement has undercut the strength of law studies within the particular areas, within the particular disciplines. That’s certainly true of sociology. Sociology of law is still a rather weak part of the discipline [of sociology], which is really too bad. It should be an important part of the discipline.

And I think that there are really only a handful of places that try to teach sociology of law or that have someone on the faculty who is significantly committed to sociology of law. Even, as opposed to criminology. Probably criminology is still stronger in sociology [voice level drops...].

COTTERRELL: Certainly in Britain, yes.

SELZNICK: But I think the Berkeley situation was symbolic, maybe indicative of what was going on in other places. As I developed - was focusing more and more on law and society and on this interdisciplinary thing - I was withdrawing my attention from the development of sociology of law within the Sociology Department, because it did seem to me more important, more fruitful as an immediate prospect to develop sociology of law within the framework of law, in the Law School. That seemed to me the most promising thing.
But it did mean that we weren’t really creating a curriculum, a commitment of graduate students and so on to sociology of law as a specialty within sociology. That’s been true, generally speaking.

COTTERRELL: I think this has been a huge debate, hasn’t it, for sociology of law, all over the world. Do you base it in law schools, or do you try to fight for it in sociology, or do you make it free standing? The experience is different in different places.

SELZNICK: Right.

COTTERRELL: And there are costs and benefits with it.

SELZNICK: I think that’s true. But the net effect, I think, has been to diffuse the focus. The Law and Society [Association] meetings are this great range of interests, of all kinds of things: problems of economics, and a lot of political scientists are involved in that; the historians, all kinds of people are involved in that, so that the sharp edge of-- I don’t think it’s really lost. I mean, it’s been blunted, but I think the law and society movement has to some extent encouraged a kind of latent public philosophy, I think, which I have at some times tried to articulate.

I’m thinking about this idea that the law is not to be understood narrowly as something that is the province of a peculiar profession and a peculiar set of institutions, but that it embraces much more than that, that the problem of creating law and defending law and supporting law is a pervasive problem in social life.

I have long agreed with Lon Fuller that-- I didn’t agree that he should make so much of the point, but-- instead of taking about law and society, we should be talking about law in society.

COTTERRELL: Yes.

SELZNICK: When you do that, then you ask: what is the significance of law for attitudes toward authority, for lawfulness in the society at large? What is the array of institutions that is implicated in a legal order, and in what ways, and so on? How much weight should be given to overcoming the deficits of an adversary system? Shouldn’t we be looking toward ways of solving problems, rather than finding legal solutions to issues? I mean, these are all, I think, part of the implicit doctrine of law and society, even though I would say that they haven’t been fully articulated.

COTTERRELL: Yes.

SELZNICK: Do you agree with that? Do you think I’m [right in] saying what I’m saying?

COTTERRELL: I think that you’re right about the public philosophy, the basis, but what I’ve spent a lot of time thinking about is what are disciplines and disciplinary foundations for things? We’ve both worked for a long time in a field which defies disciplinary allegiances. Perhaps it’s best to see it as floating freely, in a way. But it’s an uncomfortable situation to be in, isn’t it, in a way? If you have a center which is a unit which is free standing within the university, not directly connected to any other department, in one sense it makes things very strong, because you can focus entirely on that; in other respects, it could make it weak because it’s a bit vulnerable. It doesn’t have protectors around it.

SELZNICK: Right, yes.
COTTERRELL: One question would be: if it had been possible to set up the Center for the Study of Law and Society in the Law School from the beginning, would that have been a good thing? Under the umbrella of the Law School.

SELZNICK: I think it might have been, except that I think we would have concluded that the Law School was not ready for that and there would have been a lot of lack of sympathy, or not enough sympathy in the law faculty and its leadership for that. I think the groundwork had to be laid for that. That’s true of any--

COTTERRELL: But what you’re saying-- It seems to me that in the end what you’re saying is-- what I would say, too, is-- that law is-- If you’re looking for a base for all of this, in the end the base is law in some sense.

SELZNICK: Yes.

COTTERRELL: You might say legality, the rule of law, whatever, something like that.

SELZNICK: Right.

COTTERRELL: And the base is not sociology, the Sociology Department or the Political Science Department or anything like that. It’s in law. The problem is that law is sort of monopolized by a particular profession with a particular outlook.

SELZNICK: Right. And in our case, the profession is not scholarly. It’s not interested in scholarship, although, of course, now you see it’s greatly split, and certain institutional things, like the great proliferation of law reviews, create opportunities for people to say almost anything.

COTTERRELL: Yes, right.

SELZNICK: And to indulge in pretty far-out speculations about things. But I think basically what you’re saying is right. And that’s the way I felt. The natural home of a serious enterprise of this kind ought to be in the Law School, in law, trying to influence what happened there but not only that, but to draw benefits from it, not to be talking from the outside but trying to talk from the inside. At least the inside in the sense that people have certain legitimacy; they are members of the tribe and things like that. So it had to be a two-way street.

On the other hand, there was a lot to be gained from the development of a certain disciplinary focus, too, as has happened in the case of law and economics. I think it’s a lack that sociology of law and maybe the two fields, really - law and history, and sociology of law - have not been really adequately developed. Legal history is an important part of the Law School world, but it doesn’t seem to partake really adequately. Lawrence [Friedman] is an important exception, and so is Harry [Scheiber]. But you know, they have-- Lawrence has often mentioned his unhappiness at being in the Law School, because he’s surrounded by people, I think, basically who probably don’t appreciate what he’s doing.

COTTERRELL: Yes. There’s a slight sort of American problem here, isn’t there, because the law schools are so powerful, so big generally. The good schools, they’re so well endowed, they dwarf many, many other departments, so if you’re just thinking of the relationship between law and sociology institutionally, it’s a completely unequal relationship--
SELZNICK: Yes.

COTTERRELL: --in most good universities.

SELZNICK: Right.

COTTERRELL: I don’t want to talk much, but it struck me that when I was teaching at Texas [University of Texas in Austin], the Law School was rich enough and strong enough to buy in whoever it wanted. If they wanted social scientists, they would buy them in on to the faculty, so you could bring in all of that from outside. There’s a sort of process of engulfing the other disciplines and bringing them inside.

SELZNICK: Right. And that’s not the same thing as allowing the disciplines, themselves, to develop, to enrich their perspectives and to produce important work. I don’t know if we know enough to be able to say this, but I would think that when people are brought in from the outside into a law school faculty, this tends to constrain them very much. They want to be like the other law school faculty. The pressures of the kinds of courses they have to teach and so on are such that pull them into the orbit of thought of law rather than getting outside of it and trying to think of issues that are framed by other things that are going on in the world.

COTTERRELL: Okay. Maybe we can move back from institutions to ideas: “Sociology and Natural Law,” you published in 1961: this very important paper which people picked up on and sometimes picked up on in a startled way. You were putting together sociology and natural law.

SELZNICK: Right.

COTTERRELL: Can you tell me how the paper came about?

SELZNICK: Yes, that’s very easy. This paper that I wrote for those 1957 meetings ended with this talk about the third stage and dealing with how all the basic problems of jurisprudence would come up, and the role of reason in law and things of that kind. I mentioned there that I thought, well, we probably will have to endorse something like a natural law perspective, although we wouldn’t necessarily call it that because it has bad connotations for people. And I sort of left it at that.

But then soon afterwards, I got a letter from John Noonan, who actually later on I got to know well here at Berkeley and who was at that time editor of the Natural Law Forum, which then later had a different name, American Journal of Jurisprudence, I think.

COTTERRELL: Yes.

SELZNICK: Anyway, it was published at Notre Dame. John said, “I noticed you said this. Why don’t you expand on this and write something about it?” So I sort of thought of that as a challenge, so that’s what I wrote. So that’s how it came about. Somebody picked up on that passage, just a brief sentence or two in that earlier paper, and that led me to-- I was interested in it. Since I said that in the ‘57 paper, I was obviously-- while I hadn’t really thought it out, I was much disposed to be sympathetic to the natural law tradition.
And I think I understood the tradition much better than most of my colleagues, who were thinking that natural law was just a term that evoked all kinds of devils.

COTTERRELL: Thomas Aquinas.

SELZNICK: What?

COTTERRELL: Thomas Aquinas.

SELZNICK: Mostly Aquinas, but also the Inquisition and whatever. You know, arbitrariness and power. There’s something to be said for that, but it doesn’t-- this really goes back to Dewey and to [Morris] Cohen, I was interested to find out. I hadn’t really realized that before because it hadn’t bumped at me. But Dewey had what you have to call a natural law perspective because he believed that collective intelligence, critical intelligence would produce the kind of knowledge, including sometimes tacit knowledge, or funded experience, that would justify intelligent action on the part of human communities. This intelligent action obviously has to include the kind of law that is formulated, so that the principles of law cannot be separated from the understandings we have of how society works and what interests and values are at stake in taking one road rather than another.

Later I looked back again at what Morris Cohen had said about this, and I was pleasantly surprised to see that at some point, he took a rather friendly approach toward natural law by referring to it as a science of justice. He would say, “A science of justice or a natural law should do so-and-so.” In other words, he equated natural law with a science of justice. Well, that’s been my approach to that. That was the approach I took in that piece, although I tried to elaborate it by saying that we had to understand the significance of what I called master ideals and the importance of not being hamstrung by radical relativism and so on.

But basically I was saying that this is all consistent with sociology because sociology will help us determine what the world is like and what imperatives are created and what constraints are imposed and what will go into making law better.

COTTERRELL: I can see that a lot of it comes from Dewey, as you’ve been saying before, and it strikes me that Durkheim had also got to this point, [the idea of] a sociology of morals--

SELZNICK: Right.

COTTERRELL: That you could find morality in the very conditions of social life.

SELZNICK: Right.

COTTERRELL: But that wasn’t an influence at all?

SELZNICK: You mean Durkheim?

COTTERRELL: Yes.

SELZNICK: No, I think not directly. Later on, I think, as I went back to Durkheim, I realized that this was an important element. You have to remember that Durkheim has had a-- well, you know better than
I do-- has had this strange reputation. I think the early references to Durkheim in sociology did not focus on that aspect.

COTTERRELL: No.

SELZNICK: Rather, they focused on some passages in which Durkheim sharply distinguished between social facts and morality.

COTTERRELL: Yes.

SELZNICK: Academic-like scholarship has often been victimized by slogans and by selective quotations.

COTTERRELL: And the accidents of translation.

SELZNICK: And the accidents of translation. And also people haven’t thought seriously about what is are the implications of the whole argument in *The Division of Labor*, or the whole argument in *Suicide*, not just some particular formulation that he might adopt. You know what I’m talking about.

In very important ways, I was influenced by Durkheim because I so much appreciated both those studies, his doctoral dissertation and especially his work on suicide. I was less appreciative of some of the later work on education and so on. Maybe I didn’t take it too seriously. Anyway, these major things that he did seemed to me to be very much to the point, and they really had to do with the nature and conditions and potential failings of moral development.

So I felt that this third stage - I could have said it that way better, I think, in that early article - really would speak to a science of justice, and a science of justice would have to take the idea of justice seriously and look at its various aspects, and therefore would have to bring jurisprudential concerns into play, but that it would still be a science of justice in that you would be trying to come up with, as Dewey would say, “warranted assertions” about legal experience, legal institutions, and so on.

We do that all the time. Take the idea of pluralism or of checks and balances. People accept that as warranted by historical experience, that we don’t grant absolute power to human institutions, but we have to have checks on that power and so on. Well, that’s a natural law conclusion, as far as I’m concerned.

COTTERRELL: I can see that one of the objects of attack was legal positivism, plainly. When you talk about the fact-value distinction, you use Dewey and you say that the fact-value distinction is a good thing to adopt, to get started, like to clear your mind, to think clearly. Then you have to get rid of the distinction, or at least you don’t--

SELZNICK: You have to see the connections.

COTTERRELL: You have to see the connections. You don’t think of it in simple terms any longer.

SELZNICK: Yes, right. The way I put it is that the distinction is valid. Of course, there’s a distinction between is and ought, but that doesn’t mean there is not a connection. Indeed, as a matter of fact, in order to make the connections, you have to understand the distinctions.
COTTERRELL: Yes.

SELZNICK: So that’s the way I look at it.

COTTERRELL: What if the sociologist who is studying institutions, the sociologist who is studying law, for example, and trying to see the values which are embedded or, as you put it, these institutions have “a natural propensity for envaluation,” the values which are built in--

SELZNICK: Yes.

COTTERRELL: What if sociologists can’t agree what those values are?

SELZNICK: Well, I don’t think it’s necessary for sociologists to agree or disagree; it’s necessary for them to find out what the world is like.

COTTERRELL: But you talk about science of justice, so it’s got to be a science.

SELZNICK: Well, the science of justice has to ask questions about what are the kinds of expectations that characteristically arise under circumstances in which people are confronted with power. It’s not what the sociologist thinks that’s important; it’s what he concludes about this process. In the encounter between human groups or vulnerable groups or what have you and systems of power, what happens? Well, one of the things that happens is that people say, “Hey, you ought to be even-handed in what you do.” Well, why? That’s an interesting question, too. What is the source of this focus on legal equality? But that’s, again, something to be examined.

But in a more simple way, it’s simply a matter of saying that natural law is the kind of law that’s responsive to our scientific understanding. That’s not different from what a lot of the legal realists were saying. We ought to understand better what the judicial process is in order for what? - To have better law.

But I guess the thing that the natural law idiom adds to that is that this is not just a preference that we have, but it becomes, in creating systems of law, a source of authority; that is, if somebody says or can show that this is what the world is like, that’s not just a conclusion out there in the air, it’s going to be something that will have legal consequences because at some point there has [sic; have] to be some ways by which the legal system takes into account the social realities, and these social realities include a great many different things.

COTTERRELL: Okay. In the “Sociology and Natural Law” paper, I’m not sure whether this is the first time you introduce the idea of legality, but you talk about legality a lot in it. Legality refers to a set of values or a value system which is inside law and which can be revealed by studying legal experience. Is that assuming, then, that we need to think of law as a single institution which has this value system within it? What if the sociologist studies different legal contexts, different legal experiences: lawyers, judges, citizens making complaints, people involved in disputing processes, people who don’t want to get anywhere near the law because they’re afraid of it? Can you say that legality means the same thing, that these ideas of legality-- we can talk about a single thing which is “envalued,” if you like, in law? I’m talking about a problem that I have.
SELZNICK: Yes, I understand, yes. I think it really goes back down to the question of how much variation and how much continuity is there in systems that somehow affirm the rule of law.

COTTERRELL: Yes.

SELZNICK: Because we see a lot of variation. Some of it is circumstantial. We don’t want to say that there’s only one way in which fair decisions can be made. There may be other ways. There may be a range of ways which are roughly equal in the degree to which they constrain arbitrariness in decision or in which they allow for more just decisions. But it seems to me the comparative study of law also tells us about some of the continuities, the ways--

[End of Tape 7B. Begin Tape 8A]

COTTERRELL: [You were saying that] comparative study shows continuities.

SELZNICK: Yes. There are similarities as well as differences. I thought one of the most telling examples of this, useful books in this direction was Max Gluckman’s work on African law. He was coming to it as someone schooled in English law and so on, and so to some extent you have to take account of that, but nevertheless it helped him to see the ways the expectations for justice are elaborated. And they are circumstantial. To some extent they do have to-- You can’t just say there are these abstract values, but these abstract values take different forms in different contexts.

We see that even within our law. We don’t say that all defendants are treated alike. A lot depends on the seriousness of the charge. If it’s a very serious charge, a lot more attention is expected and given to opportunities for defense, rules of due process, and so on. If the charge is barely an infraction, you’re more willing to accept rough justice.

But that doesn’t mean that even within the difference between rough justice and, let’s say, more textured or articulated or more elaborated justice, is not-- there is a difference, of course, but there are also important continuities. We know that some systems are going to be more particularistic than others, so that answering the question whether like cases should be treated alike is going to be handled differently in different settings, and they might be justified by the circumstances.

We know that there are certain costs involved in finding legal solutions to questions, and so there are efforts to mitigate those costs, and so we have, let’s say, certain aspects of family law which try to avoid hard-and-fast rules and try to allow more discretion to the judges. So we certainly have a consensus on some idea of the independence of the judiciary, but just how that works is going to be different in different settings.

COTTERRELL: Right.

SELZNICK: The United States seems comfortable with this rather odd system of allowing a bare majority of the Supreme Court to decide great issues of social policy. Well, I mean, we don’t really have a lively debate on that subject. The Europeans are not shaking their fingers at us. Some scholar somewhere, like Jeremy Waldron, does that a little bit, but--

COTTERRELL: There is a sort of institutional variation.
SELZNICK: There’s a lot of variation allowed within this framework. I think the thing that I didn’t develop well enough is the idea of the arbitrary. That’s certainly a whole complex subject. I said the basic ideal here is the progressive reduction of arbitrariness in official decision. I think I may have said-- I really took that from what I had read in the philosophy of science about reducing the degree of empiricism as a kind of general mandate. So the progressive reduction of arbitrariness I think is a good formulation, but it screams for a better and fuller explanation of what we mean by arbitrariness.

COTTERRELL: I don’t want to push this too far because I’m not supposed to be in a debate with you, but the way you define legality in the “Sociology and Natural Law” paper is almost entirely in terms of constraint and restraints and so on, the idea that [reads] “legality imposes an objective environment of constraint, of tests to be met, of standards to be observed, and not less important, of ideals to be fulfilled…. The ideal of legality has to do with the way rules are made and with how they are applied.” But the only problem I have is that there are an awful lot of-- it seems like a lot of cultural claims about what legality is-- it is to do with rules, for example. But in a lot of legal systems, plainly rules are not necessarily the central thing; it might be a matter of practices which are aimed at consent, guidance, and the working out of solutions.

SELZNICK: I agree with that. I think it’s true, and maybe a more careful statement would have said “rules or practices.”

COTTERRELL: Right.

SELZNICK: But “rules” was just a shorthand for systematic norms of decision, and they could be embodied in practices, regardless of rules, or there might be some implicit rules in the practices. But it wouldn’t be just that.

I think the point about constraints is important. Probably the easiest way to think about this is in terms of constraints, just as in traditional rule-of-law doctrine. The idea is that mainly what it is is a way of constraining official decisions. You create a government of laws and not of men, means that you keep men from just doing what they would like to do, as officials.

But I think I threw in some of the other language to try to suggest that it also involves-- you’d have to analyze what you mean by standards.

COTTERRELL: Yes.

SELZNICK: And also what ideals are to be fulfilled. In other words, this is an opening to the kind of thing I discussed in that paper on the rule of law that I did, “Legal Cultures and the Rule of Law,” where I emphasized, in the first place, that the rule of law is the law plus standards. But I think, given that whole paper, my focus has been not on just standards as constraints but standards as requiring other things, like visibility, participation; again, varying depending on the issue and the circumstances. But there would still be that fundamental idea that you are connecting law to a set of standards according to which law can be criticized.

Now, what those standards are I think is subject to some variation. You don’t know in advance all of them. It comes out in part in this distinction between autonomous and responsive law. You would say that the standards of autonomous law might be met by some rather formalistic interpretation of equality or by applying rules fairly mechanically to concrete cases, whereas a richer meaning or an elaboration of
these standards from the standpoint of responsive law would focus more on the competence of the law to deal with particularity, to deal with the special circumstances of the case and so on.

COTTERRELL: Yes. In a way, it’s jumping ahead a bit, but would it be fair to say that the idea of responsive law, when you elaborate it, is a kind of very, very necessary and very important add-on to what you were saying here about legality and expanding the idea of legality?

SELZNICK: I think that’s right.

COTTERRELL: In a major way?

SELZNICK: That’s right. That’s right. I should say-- I’m not sure I understand exactly why, but I’ve been in recent years uncomfortable with the word “legality.” I know it was used, and I didn’t want to object to it when [Robert] Bob Kagan and [Kenneth] Ken Winston and Martin [Krygier] put together this book on Legality and Community [essays on the intellectual legacy of Philip Selznick]. I thought it would be obnoxious of me to say, “Well, I really don’t like that word any more.” But, in fact, I have been somewhat-- and I’m not sure exactly why. I did say legality or the rule of law. Well, why didn’t I just say the rule of law? I suppose I was trying to suggest that we’re talking about law plus values.

COTTERRELL: Yes.

SELZNICK: And relevant, law-related values, and that legality is a name for a system which embodies not simply positive law but these larger values. And perhaps if I had said that more clearly, I’d be more comfortable with the term.

COTTERRELL: Right.

SELZNICK: But that’s basically what I meant.

COTTERRELL: Yes. Yes, so there’s a lot of room for maneuvering [about] what the values are.

SELZNICK: There is. There is, but not an indefinite amount of room for maneuvering.

COTTERRELL: That’s what I want to get to, because there are very important claims made in that essay against moral relativism and against cultural relativism, I think.

SELZNICK: Yes.

COTTERRELL: And you’re very anxious to say that the range of variation is limited and that there are universals there. I don’t want to take it far, but just for the point on cultural relativism, you say, “The whole point of the doctrine” of cultural relativism “has been to encourage respect for others as human,” so the cultural relativist position presupposes a universal value of respect for others.

SELZNICK: Yes.
COTTERRELL: But is that really true? Isn’t the recognition of universal humanity itself a specific value position, which is relative to time and place? People can recognize a universal humanity. Because they recognize a universal humanity, therefore they recognize the value of other people’s values and they adopt a cultural relativist position. But that in itself is a specific time-bound position.

SELZNICK: Well, it’s time-bound, but part of that is a reflection of the kind of doctrine that cultural relativism developed. The emphasis on cultural plurality, of human beings as taking many different forms and so on-- I don’t think there’s any question, among the anthropologists of that generation, anyway, that they had a very strong moral message, and the moral message was that these are all human beings; there is what they called “the psychic unity of mankind,” and that this is the basic source and justification of respect, and the plurality helps us understand the richness of human experience and the ways people cope with very different origins and environments, but that, despite this, they tend to cope in ways that manifest a human spirit. I mean, that’s what all these people have been saying.

That doesn’t deny your point, that the recognition of a common humanity is something that has certainly not always been there, but I was talking about what was implicit in the doctrine of cultural relativism, not that a recognition of common humanity was always important. I think the emphasis in the 1920s and 1930s of cultural relativism contributed strikingly to this appreciation of common humanity, just as currently the consciousness of human rights has changed people’s attitudes toward certain things, including the natural law perspective.

I was somewhat surprised and rather pleased at the last meeting of-- at the Budapest meeting of the Law and Society Association, when my old friend Richard Schwartz gave a paper in a panel I was chairing on natural law. I had actually read his piece before. It was for this Encyclopedia of Social Sciences. Well, he was very sympathetic to the idea. I don’t think that was true thirty years ago or forty years ago.

COTTERRELL: Yes.

SELZNICK: He didn’t have a lot to say about it, I must say, but he was telling the audience, “Well, you should read these things; these are important,” and so on and so forth. Well, I think this has something to do with the fact that people in law and society are more concerned nowadays with human rights.

COTTERRELL: Sure.

SELZNICK: And human rights ideas naturally bring you toward the more universal and toward some vaguely sensed norm of at least minimum requirements of human dignity. And what is that, if that doesn’t draw you toward some consideration that law has to be constrained by and criticized by some higher norms? So I think there is that.

What might be interesting to explore is whether the current doctrines of relativism which we associate with postmodernism are significantly different from the doctrines that were espoused in the thirties here, mostly here, by the anthropologists. I’m not sure. I haven’t looked into that enough. But I think there is a tendency to go to a more extreme kind of relativism.

One of the things I tried to bring out in my book, The Moral Commonwealth, in the chapter on “Plurality and Relativism,” was the way in which some prominent anthropologists really rejected radical relativism and were interested in universal attributes or understood that when Franz Boas wrote about
primitive art, he was saying something deeply important, because he was saying that these are human beings; they manifest the human spirit in this special sense that they are pulled by aesthetic impulses and care about aesthetic impulses and so on, so that [sic; so] there is some higher nature that is associated with human beings. If you take the varieties of symbolic expression seriously, you tend to be drawn in that direction.

COTTERRELL: Yes. And another thing you said in the paper, which relates to much earlier things, is the connection with functionalism. You explicitly say, I think, that the natural law approach is grounded in functionalism.

SELZNICK: Did I say that?

COTTERRELL: Yes, I think so. And functional analysis, of course, is regularly criticized as teleological because it tends to very often slip into postulating functional needs to hold everything together. Is there ultimately a danger, too, with using the idea of natural law-- that you’re sort of postulating-- Well, I appreciate that the idea of purpose is central; there’s a purpose in law to be understood and to be sort of teased out by analysis, but is there a danger of making judgments about the end-state, making judgments about how the institution should develop, where it should get to, what law should be like and so on? Is there a danger in that? Because you can’t in the end validate that by social science; you have to say, “Well, this is my interpretation of where all of this should lead.”

SELZNICK: Well, I’m not sure that I would accept that you’re necessarily committed to any kind of hard teleological notion when it comes to law because, it’s true: you have to be able to say that human communities are open ended as to what will actually emerge from the debates, the interactions, and the power struggles and so on that go on. But I think you would say that for a community to be lawful in the broad sense, certain requirements must be met. There must be certain attitudes toward law in different ways by certain groups in the society.

For example, [H. L. A.] Hart in his book on The Concept of Law-- you wouldn’t normally talk about him as a functionalist, but he says we have to have a certain attitude toward the legal system by the operators of the legal system. If you don’t have that requirement, you’re in trouble.

COTTERRELL: Sure.

SELZNICK: So, too, you might say that there are certain requirements of sustained criticism as well as trust. Some combination of trust and criticism is needed for maintaining the system, but when you say “maintaining the system,” I think you want to avoid, as I say, a hard teleology because while you’re talking about the system as in a roughly, you might say, healthy state so that at least its fundamental integrity as a legal system is maintained, you don’t necessarily mean that it has to be only of a certain kind or that some particular end-state will emerge. You don’t know what that would be, and you couldn’t say what it’s likely to be.

But that doesn’t mean there’s not a state of the system to be considered. You might be able to distinguish what’s required for rudimentary law, just getting the basics in place, from what is required for a more elaborated system. Maybe the norm or the aim of releasing energies, in Willard Hurst’s sense, is not something that’s in the forefront of rudimentary law. Rudimentary law is mostly a way of keeping people from stealing each other’s property and trespassing and things like that.
COTTERRELL: In a way, like Hart’s “minimum content of natural law,” the rock bottom.

SELZNICK: Yes, right. But if you want to distinguish between a rudimentary system and some other state of the system, you might call it democratic law or whatever you want to call it, responsive law, or just a more elaborated system of the law, or a law closer to ideals of justice, then the requirements become more stringent.

COTTERRELL: Sure.

SELZNICK: That’s what’s involved. I don’t think this is fundamentally different from the way we talk about moral development in human beings. I have not been too frightened by the fallacies of teleology because the way I look at it, it’s part of our ordinary experience to say that if human beings in child rearing, for example, if human beings are to achieve certain levels of satisfaction in their lives, certain requirements have to be met. They have to be able to have the psychological capacity to restrain themselves, to defer gratification, to build certain competencies and so on.

Now, that doesn’t tell us about the teleological end-state of particular human beings, because those are going to be highly diverse, but nevertheless it does tell us about the states of certain generically identified systems, you might say, of the psychological wellbeing of—maybe that’s not a good phrase, but the psychic wellbeing of mature adults in an industrial society.

I don’t think you can get away from teleology to that extent. That is, this concern for an end-state which I call the state of the system. I got a lot out of— you remember I mentioned earlier my teacher, Ernest Nagel?

COTTERRELL: Yes.

SELZNICK: Well, Nagel’s attitudes toward a lot of these things seemed to be extremely, certainly congenial, maybe simply because I absorbed his way of thinking, but in his book, *The Structure of Science*, he discusses functional analysis quite a bit. You know, he had a lot of interest in social science. As a matter of fact, he used to give a joint course with Lazarsfeld, maybe with Merton too, in later years, at Columbia [University] on the philosophy of social science.

But I thought he had a lot of good things to say about that, and among them had to do with this idea that you had to identify the state of the system that you’re talking about, not just the system. Maybe implicitly when we talk about a system we mean a system at a certain state, but you really ought to specify that. Now, you can specify too narrowly because then you’d be doing exactly what you were warning against, but if you start to specify more broadly, so you’re talking about a class of persons or systems or what have you, then it’s more easy.

Also, Nagel had, I think, very sensible things to say about value judgments. He did it in a characteristic way, by making distinctions that were important. He said we have to distinguish between what he called characterizing value judgments, like saying, “So-and-so is a good student.” Now, a good student might be a lousy person; we don’t know anything about that. A good Nazi is not necessary somebody who’s part of a good moral order. But you can still identify, you can characterize a person that way.

And he says this is different from appraising value judgments, which require a different logic, and you invoke different things.
COTTERRELL: Yes. I understand.

SELZNICK: I think the same thing. Now, I haven’t closely examined what Nagel had to say about teleology, but I’ll bet that he finds an answer that tries to see the truth in teleology rather than just being kind of frightened by the word. I think this has been generally true. I don’t think you can dismiss the Aristotelian arguments about *eudaimonia* and the relationship between happiness and virtue and so on. I mean, they are difficult questions, and a lot of people can talk a lot of nonsense about them, but we can’t really escape them.

COTTERRELL: Okay. It seems to me this was a very, very important article because it set out a whole set of positions which then-- In a way, you were nailing your flag to the mast, on all sorts of matters.

SELZNICK: Right. Did I show you--? Maybe I asked Rosann [Greenspan] to send you that little piece I did for Poland on “Legal Naturalism Revisited.” A couple of years ago, I did a piece which discussed these issues in a slightly different way.

COTTERRELL: Right, right. Yes, I’d like to see that.

I wondered if we could talk about Lon Fuller a bit.

SELZNICK: Sure.

COTTERRELL: Because I know how close the relationship is in various ways, intellectually. But it was still another three years after this before Fuller came out with his *Morality of Law*.

SELZNICK: Is that right? I can’t remember.

COTTERRELL: 1964. I wanted to know how Fuller first appeared on the horizon for you.

SELZNICK: At some point early on, I read his essay, I think it was on American legal realism.

COTTERRELL: Yes.

SELZNICK: And I thought he was on the right track. I thought he was being, in a lot of what he was saying, very sociological in his approach. There was something else of his that I read, too, but I can’t remember now what it was.

COTTERRELL: What was the right track? What was important?

SELZNICK: That he did understand the relationship between law and values, that there were values implicit in law--

[End of Tape 8A. Begin Tape 8B]

COTTERRELL: Okay.

SELZNICK: I can’t remember that all too well right now, but it seems to me in that piece I made some reference to Fuller, didn’t I, in the “Natural Law” piece?
COTTERRELL: I haven’t got it here, actually. But you reviewed Fuller’s *Anatomy of the Law*.

SELZNICK: Yes, that’s years later. That’s later.

COTTERRELL: It is. That’s true. That’s right, yes.

SELZNICK: By that time, I knew a lot about Fuller, and I knew him, yes. But early on, there developed certainly a close connection between my way of thinking and Fuller’s. I don’t think it was derivative of Fuller’s; it was more derivative of Dewey. But after all, Fuller, himself, was much influenced by American pragmatism.

COTTERRELL: It could have been perhaps the 1958 debate with Hart about legal positivism.

SELZNICK: That’s possible.

COTTERRELL: What is it, Fuller’s piece? “Positivism and Fidelity to Law.”

SELZNICK: Yes. Well, that might be [cross-talk;...]

COTTERRELL: Setting out sort of--

SELZNICK: I was thinking of something else, but I can’t remember what. But anyway, yes, I had read Fuller. I think it was the “American Legal Realism” piece. I think that’s the one that I refer to in the “Sociology and Natural Law” piece. I quoted a phrase or something like that from there, but I forget now what it was.

COTTERRELL: Did you see him as a kind of ally, in a way?

SELZNICK: Yes, I did.

COTTERRELL: Did you get in touch with him?

SELZNICK: I didn’t exactly get in touch with him. I wouldn’t say that. But I ran into him a couple of times because he was visiting the Center for the Study of Democratic Institutions at one point, so he knew about what I had written and so on. He felt that there was this kinship, except Fuller was much more conservative than I was. He had been a teacher of Richard Nixon, I think, at Duke [University]. He was a Republican. And he was not so happy with this book I did on industrial justice [*Law, Society and Industrial Justice*]. He worried that I might be engaging in what he called “creeping legalism.” I felt that was a very strange attitude for him to take because he, himself, had helped lay intellectual foundations for talking about law generically.

COTTERRELL: What’s creeping legalism?

SELZNICK: Creeping legalism would be, I think, the idea that you’re allowing the legal system to take incrementally more and more control over social life, legalism in a negative sense. But he was uncomfortable with that, even though I felt that I was not doing anything that he shouldn’t have liked. But his political conservatism was coming up out there, because this, of course, would have been Republican doctrine. He probably shared some of that.
COTTERRELL:  I suppose you had already made it clear that law as you saw it extended outside the formal legal system, to ‘private legal systems’ and so on, so I can see that that could be interpreted as creeping legalism.

SELZNICK:  Yes, although he said, “Law is the enterprise of subjecting official conduct to governance of rules.” Well, I mean, you know--

COTTERRELL:  That’s very similar, isn’t it?

SELZNICK:  Yes. I have no objection to that.

COTTERRELL:  Yes.

SELZNICK:  I might object to the word “rules” more or less along the lines we were talking about, but it seemed to me quite consistent. And he, himself, had written about-- after all, he was much interested in labor arbitration.

COTTERRELL:  Yes.

SELZNICK:  He did that. I think some of the things he wrote certainly indicated the idea that he would be open to seeing industrial justice systems as legal systems or quasi-legal systems and certainly open and certainly subject to the general principles of due process and so on. And I thought I agreed with him. I said in that book-- maybe he didn’t read it all. I said that the point was not to constitutionalize these systems or to say that the law required, the constitution required that these be subject to due process rules, but rather than there should develop a common law of governance so that judges identifying a system of governance could then say, well, a system of governance has to meet these standards. And that would be different and would not require saying that these are even quasi-governmental institutions; they’re just private institutions that have a certain character. And the law should recognize that character.

COTTERRELL:  Is one difference [from Fuller] that you were very concerned to see the underlying value basis of institutions, and so you can see similar sets of values, maybe, being relevant to law in the official sense, and to things which are like law, in the lawyer’s sense. And now [as] I think about what you’re saying, Fuller is very much concerned with procedures, and later on very much concerned to separate off, say, adjudication and mediation--

SELZNICK:  Right.

COTTERRELL:  --and so on, and in a way protect what he was seeing as specifically legal processes, like judicial processes--

SELZNICK:  Right.

COTTERRELL:  --and sort of avoid them being confused with other things.

SELZNICK:  That’s true.

COTTERRELL:  It sounds like a different project.
SELZNICK: Yes, I think you’re right. Yes, that’s very good. I think that’s probably very much involved. He had a lot of worries about that. He had a word for it, actually. I’ve forgotten [what it was]. He was interested in these distinctive procedures and maintaining their integrity, so you really know which one is which and where it functions.

COTTERRELL: Yes, and then the idea that polycentric problems can’t be solved by adjudication.

SELZNICK: Yes. Right.

COTTERRELL: Which doesn’t sound like something that’s worried you terribly. I mean, you said--

SELZNICK: No. I think I wasn’t worried about it, but I guess— I haven’t really thought that much about it, but my sense would be that the resources of legal thinking should be able to provide substitutes for political judgments, if we’re talking about polycentric as requiring some kind of political judgment rather than legal judgment. So I’d be at least open to thinking about ways of dealing with problems of justice, even though they seem to involve multiple values and things like that.

COTTERRELL: Did you get to know Fuller quite well?

SELZNICK: I wouldn’t say I got to know him quite well, but I talked to him a number of times. He was here at Berkeley briefly, too, and I remember I talked to him there, too. In an odd way, he was quite interested in talking to Herbert Blumer, because he wrote this essay on “Human Interaction and the Law,” and he thought of himself really as working within that tradition of symbolic interaction. At least he had heard about it. I think he had very much of a pragmatist outlook toward things. His political conservatism may have influenced things.

Do you know Ken Winston?

COTTERRELL: Not personally. Of course, I know what he’s done.

SELZNICK: He knows a lot about Fuller.

COTTERRELL: Yes, because he did [edited] Fuller’s essays.

SELZNICK: Yes, and I think there’s a new edition of that coming out very soon, I think he said. He also was working— You know, there’s a book that the group at Tilburg [University] got out, called Rediscovering Fuller.

COTTERRELL: Yes.

SELZNICK: Have you seen that?

COTTERRELL: Yes, yes. It’s good. He’s a sort of neglected character, in a way. I mean, a little bit overshadowed, I think, by [Ronald] Dworkin in legal philosophy.

SELZNICK: Well, yes. Again, I think it’s a matter of style and language. Dworkin says a lot of things that are really, certainly compatible with Fuller’s ideas, but he says them in a way that’s much more in tune rhetorically with the last fifty years’ writings in analytic philosophy. He knows how to do that. He’s
very brilliant, of course. I think he has more brilliance, you might say, than Fuller. And he’s more slippery than Fuller.

COTTERRELL: [Laughs.]

SELZNICK: But he’s good. He’s extremely good. And he’s always coming up with these fascinating distinctions which try to deal with the problem. They don’t always work too well, but I have great admiration [for him]. But you’re right. I think Fuller had a hard time because he was running against the mainstream, which was much more sympathetic to positivism, and also [because], among people who are interested in legal philosophy, at least, he wasn’t talking their language.

COTTERRELL: Yes.

SELZNICK: So it was hard for him to do that.

COTTERRELL: You used the distinction, and you talked about it earlier, between values appropriate to survival, and values appropriate to flourishing.

SELZNICK: Yes.

COTTERRELL: There’s a close link, isn’t there, with Fuller’s morality of duty and mortality of aspiration?

SELZNICK: Right.

COTTERRELL: But these ideas are independent?

SELZNICK: Yes.

COTTERRELL: They just happened to be running parallel?

SELZNICK: Yes.

COTTERRELL: And then there’s a series of articles after that one. There’s “Legal Institutions and Social Control,” 1963, in the Vanderbilt Law Review. And then you did the two encyclopedia pieces on sociology of law. You’re developing and restating where things stand with sociology of law.

SELZNICK: Right.

COTTERRELL: Just before we talk about Law, Society and Industrial Justice, there plainly was a Berkeley approach to sociology of law, which was well recognized and seen as distinctive, largely, of course, because of what you’d done. And it attracted its critics fairly early on, didn’t it? As I suppose would be predictable. The positivists and so on really didn’t like the effort, the whole project, in a way, of linking science and values.

SELZNICK: I don’t know. I never did know how widespread this was, but certainly Donald Black--

COTTERRELL: Donald Black, yes! In particular. Yes. Yes.
SELZNICK: He wanted to make a sharp distinction between jurisprudence and sociology of law. He said [reviewing Law, Society and Industrial Justice], well, it’s a good book on jurisprudence, but it’s not sociology of law. So he had this special idea about sociology of law.

I never did know, really, how widespread this thing was. As a matter of fact, I was somewhat surprised when Bob Kagan said, a couple of years ago, “Well, we want to have this conference. We want to recognize the thirtieth anniversary,” or whatever it was, “of the publication of that book.” I said, “Well, you know, I’m not so sure that that book has gotten that much interest, that there was that much interest.” [He said] “Oh, no.” So I said, “All right. It’s up to you.”

COTTERRELL: Well, can we talk about the book, Law, Society and Industrial Justice?

SELZNICK: Yes.

COTTERRELL: I have the impression, from what you said earlier, that there was a very long gestation, in a way; the ideas had been forming for a long time.

SELZNICK: That’s true. I mean, part of it had to do with just the ideas forming; part of it had to do with the fact that I was extremely busy during those years, doing other things, and I sort of found a little time here and there to work on the book. And also a lot of it required getting to know a great deal more than I knew.

For example, I wrote this chapter on “The Quest for a Law of Associations,” so I did a lot of reading on that whole background. And then there was all this stuff on contracts and collective bargaining and so on and so forth, personnel policy, so it took a long time. There were different segments of it that needed a lot of work. But I think the main reason it took the time it did was that I really was doing other things. I was really too busy.

COTTERRELL: I suppose in terms of the theory that the book embraces, you could have developed that in other empirical contexts, couldn’t you, apart from talking about industrial relations.

SELZNICK: Sure.

COTTERRELL: But you chose industrial relations as the vehicle for it.

SELZNICK: Right. Don’t ask me why.

COTTERRELL: [Laughs.]

SELZNICK: I mean, I wouldn’t have a good answer to that question, except that it did implicate the idea of bureaucracy and the significance of bureaucracy from a more positive standpoint, and therefore its continuity with my thinking about organizations. It had a lot to say implicitly about institutionalization, which was another one of my obsessions.

And also, as I say, and as I think about it now, it probably had some connection with the fact that I was associated with the Institute of Industrial Relations, and I was maybe thinking of a project that would be
relevant to the Institute of Industrial Relations. I don’t remember actually doing that, but it seems logical that I would have done that.

COTTERRELL: Some people have read the book-- probably quite a few people read the book-- as marking a very clear change of emphasis from the earlier books on organizations and leadership in organizations in that you-- well, this is Douglas Webb again, just as a sample: [Reads], Selznick’s “overall approach clearly involved an attack on the traditional prerogatives of managers and institutional leaders. As such, it represented a departure from his position in Leadership in Administration, where he exalted the role of the executive in defending organizational integrity and, indeed, rationality. In Law, Society and Industrial Justice, by contrast, Selznick supported the view that rationality is most securely based and most fully achieved if it emerges from below and is not merely imposed from above.”

SELZNICK: Yes. I can see where Webb would say that, but I don’t really think it’s true. I mean, I think that that last sentence is not something that I came to believe then. It’s just that it didn’t seem like-- it didn’t pop out as a relevant thing to say when I was talking about leadership in administration. I don’t mean to say that there’s no difference. There is a difference. But I think addressing myself to the problem of industrial justice led me to emphasize some strands of thought rather than others. Was this a change? Well, I don’t really think so, because at a policy level, certainly my attitude toward management and collective bargaining had long been established as one very favorable toward restraints on management, toward labor unions, collective bargaining. All of that was certainly well established in my thinking. If it didn’t show up as much as it might have in Leadership in Administration, it was only because my mind was focused on certain themes rather than others. I don’t think there was any real change.

It reminds me of some complaint I had once from my old friend, Bill Kornhauser, I think in connection with that Vanderbilt Law Review piece. Bill had been one of my-- had kind of followed in my footsteps in writing about mass society, which I had done in a chapter in The Organizational Weapon.

COTTERRELL: Yes.

SELZNICK: And Bill wrote a little book called The Politics of Mass Society, in which he had pretty much embraced this theory and so on. And then he read some passages in that essay, and he came to me with considerable upset. He was inclined to get upset. “Now, [see] what you’ve done to me! You’ve changed your view about all this.” I didn’t change my view, I was just focusing on something else. I can’t remember what that passage was, but there was some passage that seemed to suggest that there was some other way of looking at the thing that would be okay. Bill was really expressing feelings of betrayal.

COTTERRELL: [Laughs.] It had knocked the bottom out of it.

SELZNICK: Yes!

COTTERRELL: The foundation had gone.

SELZNICK: Right. That I should do that. But it seems to me it’s not that difficult to walk and chew gum at the same time, as the Americans say. I do think that people do tend to read into these things a shift in attitude when basically it’s just a project that’s changing, and you bring to bear ideas that seem to be more relevant at that time.
One of the reasons I think that this is so is because the idea of the connection between authority and consent is something that runs very deep, going back really to many things that I had read earlier and thought about earlier, like Chester Barnard, who, in his book, The Functions of the Executive, emphasized the importance of basing authority on consent, and you don’t give orders that you think will not be obeyed, and things like that.

And then there was this political scientist - I quoted him several times - Charles Merriam, who wrote about the “poverty of power” and about how fragile systems of power are when they’re challenged. Well, there’s an easy implication from that to adopting a view that-- and then there’s one other theme, that strength from authority comes from below.

You know Mary Parker Follett? She was a pretty trenchant writer on institutions, authority, and so on, in the twenties, I think. Very much, again, in the pragmatist tradition. She talked about situational authority. I have a little reference to all that in The Moral Commonwealth. She coined a phrase, she called it “the authority of the situation.” She was trying to say that what’s important is not the authority of the person or of the office but the authority of the situation. What does the situation require? The situation might require deference to the authority of the cook, or what have you, to your secretary. I mean, the secretary is going to know where the files are, and you’re not going to question her all the time and say, “No, you don’t know where the files are” or “Go look somewhere else,” you know, “not where you think you’ll look.”

But most important, I think, was the idea that once I began thinking about industrial justice and the problem now about the relationship between managerial authority and the employees, it seems to me it was a natural thing to think about the importance of - how’s it phrased? - “consent coming from below.”

COTTERRELL: Yes, yes. But there does seem to be a difference of emphasis. I mean, maybe it’s just that we were talking yesterday about polarity and holding polarities, and not allowing one to be reduced to the other. But when you were writing about Leadership in Administration, you were certainly emphasizing, as I understand, the role of the leader in clarifying and formulating values and showing the people in the organization the direction--

SELZNICK: Educating people.

COTTERRELL: Educating people and all of that. And then, on the other hand, the idea of situational authority is not like that at all, is it? The idea that the situation, itself, produces what is appropriate to it.

SELZNICK: As I said before, I said one of the lacks of that leadership book is that I should have had a chapter on responsiveness, and that would have drawn attention more to the importance of learning from lower ranks and bringing them in, in participation and things of that kind. I didn’t do it.

I’m not saying there’s no shift in emphasis. What I’m saying is that the shift in emphasis is mainly a matter of the task at hand, rather than a change in my basic views or theories. I mean, you know, you say what comes to mind, and that seems natural in the setting, but it isn’t really that you’ve changed your views.

We often have this problem when we talk about other people’s work. We say, what is the difference between what he would object to and what this person would say [of it]: “Oh, yeah, I guess that’s right. I’ll add that, too,” you know? Because it’s not really incompatible with that.
COTTERRELL: Yes.

SELZNICK: But I think most important - that Webb didn’t take account of - was my radical past was showing itself, and-- I was being modified, too, but [it was] showing itself, the idea that you took for granted that trade unions were important and productive institutions, that the authority of management could not be taken as sacrosanct. That the view that organizations had to be run according to only one principle of authority; you couldn’t have divided authority, which is what many of the company leaders said in the early part of the [twentieth] century: that was bunk.

COTTERRELL: Yes.

SELZNICK: So it was perfectly natural for me to see it in this other setting, particularly when I was now thinking about it more as a political system. The difference, I think, was that I was certainly giving up on-- I had already given it up, but I was certainly not showing the importance of transcending ideas of class warfare and class struggle and so on-- and trying rather to see the creation of institutions that would allow for more unity within the firm. That differed from the radical background.

But the idea that you appreciate the importance of unions and the significance of collective bargaining, the great achievement of the 1935 Labor Act, labor legislation and so on - I mean, that was simply something I took for granted. And then you’d ask, “What are the premises of this?” and so on.

So I agree there’s a difference in emphasis, but it’s not really due to some change in my views about organizations.

COTTERRELL: We talked a lot earlier about the University and the experience in the University. And this book appears at the end of that period, after that decade of experience, in a way--

SELZNICK: Yes.

COTTERRELL: --of what had been going on.

SELZNICK: It’s not just the University. Those were things going on other places, too. I think I mentioned it. For example, people were writing about the Catholic Church and saying they had to loosen up authority. These were the days of [the Vatican II in the mid-sixties. It was in the air in other ways, too, so I think that partly had to do with it.

But if I reflect on it, I think that was all window dressing. I mean, what was most important was something that I took for granted, that the authority of management in a rule of law system would have to be constrained, that you would have to look at different kinds of institutions and different sources of authority.

[End of Tape 8B. End of interview.]
ROGER COTTERRELL: Okay, so we talked about *Law, Society and Industrial Justice*. And then towards the end of the seventies, 1977, you became Professor of Law and Sociology, so your title changed from Professor of Sociology.

PHILIP SELZNICK: Was that ’77?

COTTERRELL: Seventy-seven, yes.

SELZNICK: That was when we began the JSP [Jurisprudence and Social Policy] program. We didn’t really quite begin it, I guess, yet; but administratively we began the JSP program. My change, the change took place when we established the JSP program, and the decision was made that I would move over into the Law School to be chair of that program, but I kept a part-time appointment - I had, in fact, a joint appointment, but I think it was two-thirds in the Law School and one-third in the Department of Sociology.

COTTERRELL: Right.

SELZNICK: And then I guess the first cohort of students was the following year, ’78-’79, yes.

COTTERRELL: Yes. Okay. Maybe we’ll come to the JSP in just a moment.

SELZNICK: Okay.

COTTERRELL: Actually, during the seventies you came to Britain-- well, in the early seventies. It might be nice to just say a word about that. You have told me a few things about it already.

SELZNICK: About what?

COTTERRELL: About coming to Britain and helping in a way to start the Oxford Centre. But in 1971 you were--

SELZNICK: Was it ’71?

COTTERRELL: In ’71 you were a visiting fellow at--

SELZNICK: Oh, thank you. [Responding to Doris Fine giving some refreshments.]
COTTERRELL: Okay. So you went to Oxford [University] as visiting fellow in 1971. How did that come about?

SELZNICK: I think it had to do with the-- I don’t really remember, exactly, but what I do remember is that somehow Jean Floud, we mentioned the other day, and I think Philip Lewis-- they were trying to get some kind of socio-legal work started in Britain, and I think the plan was to organize some kind of a seminar at Oxford. In connection with that, they asked me to come. I was offered this fellowship at All Souls. Unfortunately, I decided to go only for a term because I felt I was really too busy in Berkeley to go for the year, which was something of a mistake because it’s really difficult to get accommodated to the academic culture in England, even to know what the structure is of the holidays and the feasts and all this stuff.

They also asked Philippe, so Philippe Nonet came. He had a fellowship at Nuffield [College], I think. Gertrude also. They arranged for some kind of a visiting position for her at Nuffield. We had an apartment at Iffley.  It’s a little village, really, on the outskirts of Oxford. We had an apartment at Iffley owned by Oxford [University] in Iffley.

COTTERRELL: Yes.

SELZNICK: Is Iffley a well-known place?

COTTERRELL: It’s a little village, really, on the outskirts of Oxford.

SELZNICK: On the river.

COTTERRELL: Yes.

SELZNICK: That was quite nice.

COTTERRELL: The broader significance of that presumably is that news about what the Center was doing had become widespread, and people were interested in trying to [emulate it]

SELZNICK: I suppose so, yes. They didn’t tell me that, but I assumed that that was so.

COTTERRELL: Yes. Were there other places abroad that were in touch with the Center and were interested in sort of learning lessons from what you were doing here in Berkeley?

SELZNICK: I think the main place probably was in Holland, because a fair number of people from Holland had been at the Center and later became prominent academics in Holland. In Utrecht there was Antonie Peters. There were a couple of people in Amsterdam. AHM-ster-dahm, I should say, right? I guess there was [sic; were] also some things like that going on in Germany, particularly at Bremen. Well, you know Johannes [Feest], don’t you?

COTTERRELL: Yes.

SELZNICK: Johannes Feest.

COTTERRELL: Yes.
SELZNICK: I guess he’s still at Bremen.

COTTERRELL: Yes. Ah, yes, because he was over here, wasn’t he?

SELZNICK: He was over here, too.

COTTERRELL: And Toon Peters was here as well.

SELZNICK: Toon was here, yes.

COTTERRELL: As a visiting fellow.

SELZNICK: Right. I can’t really think of other places. Of course, people in Japan knew about us. Maybe that was a little bit later. Not necessarily. I think [Kahei] Rokumoto left here and went to the faculty of law at the most senior university in Japan, Tokyo University.

COTTERRELL: I’ve got a list of various people who visited from abroad. I’m sure it’s not a full list by any means, but Nils Christie from Oslo came.

SELZNICK: Oh, yes, he was here.

COTTERRELL: Yes. And Shin Oikawa, Japan. Several from Japan: [Zensuke] Ishimura--

SELZNICK: Yes. I think the main contact with Japan was Rokumoto, though.

COTTERRELL: Right.

SELZNICK: Because he was actually a student here. Not just a visitor.

COTTERRELL: And Berl Kutschinsky from Denmark, Copenhagen.

SELZNICK: And Adam also, I guess, Adam Podgorecki.

COTTERRELL: Podgorecki, yes. And Maria Los, yes.

SELZNICK: Yes.

COTTERRELL: And Manfred Rehbinder from Berlin was here.

SELZNICK: Yes, Rehbinder. What I enjoyed was seeing some of these Germans come over, maybe Feest was one of them, but I don’t want to get quoted on that. I’m not sure that’s true. They’d get to Berkeley, and they would be all buttoned up, and after they were here a couple of months, you could see the relaxation [laughter] set in, in their body language and in how they dressed and things like that. They were becoming more attuned to the Berkeley atmosphere.

COTTERRELL: Yes. Yes. I know Gunther Teubner well, and I think he has a sort of mix in a way, a trans-Atlantic-- right.
And then the year after, '72 to '73, you were a Guggenheim fellow. I just wonder what that was, what you were doing then.

SELZNICK: [Doesn’t respond immediately.]

COTTERRELL: Maybe it’s connected with several things. In 1973 you were visiting professor at the Institute of Advanced Legal Services in London.

SELZNICK: Nineteen seventy-three?

COTTERRELL: So you were back in London in ‘73.

SELZNICK: And when did I have the Guggenheim?

COTTERRELL: In between, in ’72 to ’3.

SELZNICK: Oh. I didn’t remember actually taking a year off then, but the work I did on the Guggenheim was really work that fed in later on-- I was really dealing with some of the issues that I dealt with later on in The Moral Commonwealth, some of the broader issues of theory and so on. I sort of postponed doing anything with it until later. I think I was mainly interested in the problem of values and social science and institutionalization, questions like that.

COTTERRELL: Not so much the Law and Society in Transition [book]?

SELZNICK: No, I don’t think so.

COTTERRELL: Can you say a little bit more about the input you had into founding the Oxford Centre for Socio-Legal Studies?

SELZNICK: I don’t think I had very much direct input. I think one would have to say that by participating in what was going on at Oxford while I was there at that seminar with Jean and Philip and some of the others, we were, as I understood it, helping to create an institutional foundation for the people in Oxford to go ahead and apply for the grant that would allow them to set up the Centre. But I didn’t have any direct role in that.

COTTERRELL: They obviously treated the Center here as an important model, because the Oxford Centre was set up in a similar sort of basis, free standing.

SELZNICK: I assume so.

COTTERRELL: Yes.

SELZNICK: But wasn’t that connected with one of the colleges?

COTTERRELL: Yes, Wolfson.

SELZNICK: Wolfson, right.
COTTERRELL: But as an independent operation.

SELZNICK: Yes.

COTTERRELL: Okay. Perhaps we can talk about Law and Society in Transition, which came out at the end of the seventies, ‘78. This is, of course, collaborative with Philippe Nonet.

SELZNICK: Right.

COTTERRELL: Maybe you could tell me first of all about your relationship with Philippe and how that developed as a collaborative thing. Not so much the book but the way you began to work together.

SELZNICK: Well, of course, Philippe was a student here throughout the sixties. I think he came to Berkeley just when we began the Center, I think, in 1961. I think he quickly became acknowledged by everyone as a very brilliant person. He was, I think, a very committed and dedicated student.

COTTERRELL: He had read “Sociology and Natural Law,” hadn’t he, and got in touch with you?

SELZNICK: He had, before. And he felt comfortable with and absorbed into this whole project at the Center. So Philippe and I had opportunity to have many conversations. Then, toward the end of the sixties, maybe just about the time we were going to Oxford, we began thinking about this more comprehensive interpretation that would take account of, you might say, what we had learned during the sixties. We had many conversations about that.

I think originally we had a tentative title for that project. I think it was called “The Jurisprudence of Law and Order.” It was all at first rather vague. Then finally some kind of a structure emerged.

COTTERRELL: But what was the project?

SELZNICK: I think we were trying to suggest the need for a more expansive understanding of the role of criticism and participation in legal authority, the idea that somehow something had to be said about the way law and legal authority could respond to the changing circumstances of law and order. I think “law and order” was a phrase that was something of a watchword and perhaps even a red [pause as he tries to think of the word]—

COTTERRELL: Rag?

SELZNICK: Red what?

COTTERRELL: Red rag?

SELZNICK: Red rag, yes. In those days, it was often invoked as a way of putting down the spirit of rebellion and self-assertion that was going on, certainly among blacks and among the students in the United States. I think we pretty much shared a lot of these views, and I found it extremely rewarding to talk with Philippe. He was always a very interesting and intelligent person to talk to. As a result of a whole series of conversations, something emerged. Well, this typology emerged, and then it was the business of how to see the relation between these [types]. We saw pretty much eye to eye on what the arguments should be.
This went on for quite a while, I think, even though I think the essay actually didn’t get published until maybe ‘78.

COTTERRELL: That’s right.

SELZNICK: But we were working on it off and on for a long period before that. It was not something dashed off. I remember we were doing some work on it even while I was in Oxford. As you know, while I was in London, I gave this talk, which I called “Modern Society and Responsive Law,” at the University of London. That was in ‘73.

COTTERRELL: Yes. So the idea of responsive law was in place in the early seventies.

SELZNICK: Right, right.

COTTERRELL: As the book emerged, took shape, the form of it is very different from anything you’d done before, at least superficially. It seems a sort of developmental viewpoint, whereas in your earlier work you’d been focused on the rule of law and so on, and the unfolding of values within it.

SELZNICK: Yes.

COTTERRELL: But now you see things in terms of--

SELZNICK: More developmentally.

COTTERRELL: --evolution, some sort of development.

SELZNICK: There’s something to that, but it’s not the whole picture, because I think if you look at Industrial Justice, it’s very much governed by this idea that there can be this kind of development, and it’s mediated by certain institutional processes. I think, if I recall correctly, there’s even some little discussion of the idea of moral evolution in Industrial Justice.

COTTERRELL: Yes. But now it sort of takes center stage, or it appears to.

SELZNICK: I guess I have the attitude-- I don’t know, maybe I’m misleading myself, but I don’t think so-- this is something we talked about yesterday-- when we see these different approaches and different projects, I don’t think it really makes sense to say, “Now we have a different point of view.” I think the project summons, brings to the forefront, certain ideas which in a way, at least for me, it seems to me I had long held. I mean, I had, you might say, a basically developmental approach to the law from an early stage, I think, even thinking about sociology of law in terms of stages suggests that.

I had long been attracted to psychological theories of moral development. I had used [Jean] Piaget’s work in classes, especially classes having to do with sociology of law, at an early stage, so I didn’t think there was anything remarkable about that. It did give me the opportunity to try to explicate more fully the nature of a developmental explanation, its limits. And so I think we wrote what I thought was a few careful pages, trying to say what a developmental model is supposed to say and what it doesn’t say. But the idea of a developmental model has certainly appealed to me for many years. That would be one reason why I felt that Durkheim’s book on The Division of Labor was so compelling. I mean, he was
talking about this transition from mechanical to organic solidarity, not just as a typology but as something that was going to be a development in response to changes in the nature of society and so on.

But Durkheim, as you know better than I do, wanted to see-- I mean, he, in a way, was tracing the continuities as well as the differences.

COTTERRELL: Yes, sure.

SELZNICK: He has this interesting idea about the non-contractual foundations of contracts. You have some kind of solidarity manifested in the law of contracts, even as contract itself creates different kinds of interdependence and so on. So I think that way of thinking was very congenial to me. It may be because early in my life, certain aspects, certain strands of Hegelian thought were appealing to me. I basically liked the idea that there are social changes that one could think of as posing problems, a thesis to which there is some kind of a response, and out of this comes an aufhebung, some kind of a new set of beliefs and structures and so on, which didn’t emerge out of nowhere but emerged out of the dialectical connection.

COTTERRELL: Right.

SELZNICK: So for my part, I don’t see this as a real-- it’s a departure because once you start thinking about these types and how they relate to each other, you draw upon insights or intellectual dispositions that you already have, but they may not have been in the forefront of your thinking with respect to other problems that arise.

COTTERRELL: There’s a difference of emphasis, as you are saying all the time, I think.

SELZNICK: Yes.

COTTERRELL: I think what I was trying to get at was that with your earlier work it seemed as though there is a set of concerns which you are trying to dig deeply into and analyze, and the rule of law, for example, emerges very strongly as one of those, the whole idea of natural law and so on. And then with Law and Society in Transition, because you’re using types, you’re introducing types and you’re setting them against each other, which I didn’t think you tended to do very much in your earlier work, you’re sort of introducing a much more direct concern with variation-- you know, social variation and the play of different developmental forces.

SELZNICK: Yes. I think all that’s fair. I’m sure you could see that kind of increased-- I mean, one hopes to have learned something in the course of one’s life, [both laugh] and I think there certainly are new ways of thinking that emerge. All I wanted to say was I wasn’t aware of any important shift in my thinking, because I think many of these ideas in a broader sense were congenial to me and had been for many years.

COTTERRELL: Right.

SELZNICK: But it is true that it does represent a somewhat new effort to see this typology and their connections. I’ve often thought that the reputation of that essay among law and society scholars would have been much greater if we had simply said, “Hey, here’s an interesting typology, and it has this kind of policy significance” and so on. People would be comfortable with that. What they’re uncomfortable
with was the developmental argument. That’s understandable because there is a very strong bias, I think, in western social science against, you might say, immanence. The idea that if there are changes, these are changes that really come from the outside, that’s what people are comfortable understanding.

And, of course, it is true that, to a large extent, the changes that we observe are changes that are forced by the outside, but the most interesting changes are those that combine both changes in the external environment with dispositional changes that emerge from within what it is in, whether it’s a human person or some kind of institutional development and so on.

COTTERRELL: So in a way, it’s still the idea of flourishing-- that the legal institution has a way of evolving partly through its own internal drive to flourish, in some sense.

SELZNICK: Yes.

COTTERRELL: And responsive law is--

SELZNICK: That’s right. I think another aspect of it is this-- that has been sort of continuous in my thinking about law: as you know I made this somewhat articulate in The Moral Commonwealth, where I talked about survival and flourishing.

COTTERRELL: Yes.

SELZNICK: And that both need to be considered. I didn’t want to have a theory of law that ignored the importance of foundational attributes of law. In other words, it’s the kind of thing that made the difference between law and no law. So analytically, this is one reason I was perfectly happy to accept [H. L. A.] Hart’s notion of what law is, which really fits a very rudimentary notion of law.

Also, from a policy point of view, I had, for other reasons, long resisted the idea that institutions, including law, that were infused with value were then to be taken to suggest that the underpinnings were not important, like the idea that democracy is really a matter of the culture and so on, and the forms, the bare-bones structure that democracy requires in terms of protection, for example, of voting rights and the opportunities for minorities to become majorities and so on-- If you ignore these fundamentals, the way the communists tended to do and the fellow travelers-- they talked vaguely about democracy, were willing to embrace as democracies regimes that were really phony democracies. Well, that was something I was very sensitive to. And I think that has influenced a lot of my thinking along these lines, so that when the people associated with critical legal studies began to talk that way, I felt-- even though I shared a lot of their concerns, I thought they were going way off.

COTTERRELL: Yes, they were just “trashing,” and so on.

SELZNICK: What?

COTTERRELL: Trashing and all of that. There’s no point in trashing unless you’re going to build.

SELZNICK: Right. Or as one of them said - I discussed this in the book - “No structure will save us.” Well, that’s bunk. I mean, you know, we need structures, and we need structures at many levels. We need structures institutionally and as foundations for the minimum conditions for democracy, the bare
bones of democracy, and then you look to flourishing, but you don’t give that up. I think that’s true in many other areas, too, where we say we need-- Just because we say that--

[End of Tape 9A. Begin Tape 9B]

SELZNICK: --[a structure is not good enough, that doesn’t mean] the structure is unimportant.

COTTERRELL: No. Right.

SELZNICK: It goes back, again, to my earlier, very early disagreement with some of the sociological talk about the irrelevance of formal structure and how only informal structure counts. I thought that was nonsense, too.

COTTERRELL: Yes. So within the framework that you set up in Law and Society in Transition you sort of entrenched that position very firmly because of the developmental thing. You cannot get to responsive law, really, except by way of autonomous law.

SELZNICK: Not only that, but responsive law presumes the achievements of autonomous law.

COTTERRELL: Right. In part, this is structure.

SELZNICK: Right.

COTTERRELL: And then the possibility of loosening structure.

SELZNICK: Right.

SELZNICK: Yes. If you don’t have an independent judiciary, for example, you’re not going to get responsive law; you’re going to get some kind of regression to repressive law. There’s always that possibility of regression. These departmental things have been important to me. That’s one of the reasons why I found [Sigmund] Freud attractive, because there also you have developmental models and there is this assumption that you have to create certain basic, enabling conditions, for human personality. But these enabling conditions aren’t going to be the whole story; there are going to be all kinds of problems on the road to maturity. But maturity is not an innocent idea. You can specify what it means, and you can ask how people behave that way.

And Piaget has a developmental model of learning. I think these things tend to follow the same basic course. You create the competence to deal constructively with the problems faced by the system. Competence in dealing constructively means without giving up the enabling conditions. These have to be protected.

COTTERRELL: Yes. The only slight problem I have with that is: how do you know that there is a particular developmental trajectory? Even with, say, the development of the child, the moral development of the child-- Well, you know, Carol Gilligan’s work, which showed that moral development might be significantly different for girls and boys. That’s not necessarily anything to do with sex. It may be entirely or very largely to do with environment. So there is still this problem, isn’t there, of knowing what is inherent as a developmental track: what is inherent, say, in law and what is something which is culturally or socially determined.
SELZNICK: No doubt, that is a problem, but I think that the more sophisticated developmental models can be restated in ways that allow for that kind of plurality, because characteristically, the idea of flourishing usually includes the idea of adaptability and flexibility, so that the human person develops certain competences, including certain peculiar competencies to adapt to new circumstances without panicking, without regressing, by developing new ways of doing things, and so on.

I think a lot of this goes back to the pragmatist ethos. William James-- I didn’t always like some of the things he wrote, but when he was talking about the self, for example-- or not just James but George Herbert Mead, the whole bunch of them, they more or less had the same idea. You had to create a more flexible self, but yet one that retained coherence. You had to be the kind of self that would be able to meet new demands, to make transformations as they were required, yet without losing the basic integrity.

Well, James had views like that, but so did George Herbert Mead. When Mead talked about the transition from the morality of the significant other to the generalized other, he was really talking about the capacity of people to move from some narrowly defined set of commitments and perceptions and so on, to something that would enlarge horizons, that would permit one to take the point of the view of the other, to be self-critical, without destroying oneself.

I mean, not all of this was wholly worked out, but underlying it was the basic thing. One thing one sometimes forgets about Dewey’s argument, and one of the reasons why, in what I’m doing right now, I want to come back to that, and why I call it a humanist naturalism, is that he was interested in certain criteria of human development, so that [sic; so] for him growth was an important criterion.

But, of course, he meant certain things by growth. He meant that you grew in competence, and you grew in your ability to deal with new problems. You grew in your ability to overcome the narrowness and self-centeredness of life. You grew in your awareness and your capacity to deal with interdependence. That’s why, for him, education was a moral enterprise. It had to do with these transformations of capacities.

COTTERRELL: But it’s interesting, in a way - I mean, it may be just accidental - that you have slipped from talking about institutions to talking about the self and the personality. We were talking about law as an institution which has the capacity to grow in a way, and so on. Some people have suggested that the notion of responsive law-- I think Robert Kagan, in the Legality and Community book-- that this is a very, very good notion for explaining a lot of important things about American law and American legal traditions, the argumentative tradition of working things out and so on.

But the [Law and Society in Transition] book seems to me to have much more ambition. You’re not just trying to explain American legal development, you’re trying to say what law as a universal institution is capable of.

SELZNICK: Yes.

COTTERRELL: To put it in really crude terms: something like Islamic law, has this got the same capacity for flourishing towards responsive law? [Or] any legal system you wanted to take, which was not the whole legal system?

SELZNICK: I think that’s a fair comment, but I guess I would say that if this argument were more fully developed from the point of view of its implications for comparative study, you would want to say that
responsiveness can take a variety of forms, and this variety will certainly reflect historical circumstances. But you will see some general patterns.

For example, the development in Germany of what they call a Sozialstaat has to be understood as an effort to get beyond traditional conceptions of the Rechtsstaat. And so, if you analyze that closely, you would say, well, yes, it has these elements of responsive law in that because it was trying to take account, use law to take account of the social circumstances of modernity.

In Britain you would look more closely at the developments of the state and administration and the kind of decision-making bodies that have really enlarged the discretion of administrators and have broken down the kinds of distinction that I think [Albert Venn] Dicey emphasized in the nineteenth century about, you might say, the rather alien nature of administrative process or administrative law with respect to the situation in England.

I’m not saying it as well as I could, but I think in different settings, in China and in Britain and Germany, in Russia today, you would use the model we’re talking about to identify the particular features or the particular resources that could be mobilized, given the historical circumstances, to meet the special aspirations of responsive law, which go beyond those of autonomous law.

COTTERRELL: Right.

SELZNICK: Autonomous law is mainly a way of creating a legal order and doing so by establishing the legitimacy of the courts and the legitimacy of other officials, but responsive law asks us to go beyond legitimacy, to maintain legitimacy while putting it at risk. Well, there are different ways in which that could be done; there’s not just one way.

In my paper on “Legal Cultures and the Rule of Law,” I should have said more about this, because I was trying to emphasize there that our notions of the rule of law are not incompatible with variation. As I said there, we don’t have big arguments about whether or not the French civil law system versus the British common law system-- which one is a better exemplification of the rule of law.

I mean, we don’t argue about that because we don’t really know. We say, well, probably each in its own way does a pretty good job of exemplifying the rule of law; each in its own way takes certain risks and needs certain modifications and so on, but basically we’re talking about rule-of-law countries. The same thing would be true of Chinese law, too, where we would expect that there would be different renderings of the responsive law idea.

I think what Bob said was right. I don’t disagree with his analysis. We tried to say, actually, which I think would fit with Bob’s view, that when you get to a responsive law, the focus shifts from the courts to other agencies so that regulation becomes the major legal arena, and that requires some cooperation between the courts, the legislators, and administrative agencies, and the leitmotiv is not so much the checking of power as it is trying to monitor, at the same time as you cooperate in dealing with these problems.

COTTERRELL: That’s very interesting, because some people have suggested that the destiny of responsive law in a way is to give more power to courts, courts as policy-making agencies, courts as problem-fixing agencies.
SELZNICK: That’s a partial truth, I think. To some extent, we say that so long as we are confident that the court is functioning as a court, we are willing to allow the court to actually make policy, which is nothing new. I mean, courts made policy about contract law, for example, for a great many years. There was kind of a tacit understanding: well, let’s let the courts do that because they can figure it out, and they can build upon, create a system of principle that will allow for the stability of expectations in contract law and so on. But the courts were making law.

COTTERRELL: Sure.

SELZNICK: But they were making law in a way that protected their legitimacy as well, and so partly I think this had to do with the fact that they were dealing with arcane subjects that ordinary citizens and even legislators didn’t want to deal with. You’d have to have some mediating institutions, like in America, the American Law Institute or some kind of law commission in England and so on, to mediate between these policy concerns and expressing things in a way that allowed the courts to proceed but retain their legitimacy.

But in certain areas, we’ve allowed the courts to have more leeway. We’ve said that our appellate courts and even district courts could have more of a role with respect to certain egregious circumstances: for example, the way the courts have influenced the treatment of prisoners. The courts have, some people think, have gone too far in saying, well, this whole system has to be reconstructed and we’re going to put it in receivership until you meet certain standards.

Well, what should those standards be? The courts create a special master, and the special master says what these-- so there are these systems by which the court tries to at the same time maintain its legitimacy and also get itself directly involved in policy making. Mostly, however, that has to do with egregious issues, as against trying to say what will create a really good system, the best system, or something like that.

Whereas regulation is different. In regulation, ideally you’re really trying to improve the system. You’re trying to say we’ll have a better distribution of energy if we regulate effectively; we’ll have better financial services if we regulate effectively.

COTTERRELL: But neither approach is inherently better; it depends on circumstances. It’s a matter of variation?

SELZNICK: I think that’s true, but they do have kind of a--

COTTERRELL: [Interrupts.] I mean, I was going to ask you whether you thought there was any particular affinity between the common law system and responsive law.

SELZNICK: That’s a good question. I don’t know what the answer to that is, but I think the answer would be yes, there is an affinity, taking the common law view, broadly understood. An example would be the suggestion I made that nobody paid attention to, [which] was the idea of the development of a common law of governance in industrial justice sites. I said we didn’t want to say that these private organizations were agencies of the state and were therefore subject to constitutional due process of laws, but if we could develop a sense that there was a common law of governance, then if you had a finding that this was a situation in which governance was taking place, then at least certain minimum standards could be kept.
COTTERRELL: Yes. And, of course, in *Law, Society and Industrial Justice*, you do actually describe the way standards emerge, basically through almost a kind of private, common law process with collective bargaining and grievance procedures.

SELZNICK: Right. The collective bargaining agreement creates institutions. It creates grievance procedures, including grievance arbitration. That system is the crucible within which these new forms develop. And it’s not perhaps irrelevant that, to a large extent, the system is manned by lawyers. The lawyers bring to bear, within the private system, the sensibilities and learning that they’ve gotten from the public law system. They’re not creating a system of public law, but the connections are made, and they are the mediators of this connection.

COTTERRELL: Okay, fine. This is probably an invidious question, but I just wanted to ask-- I mean, *Law and Society in Transition* is a joint work with Philippe.

SELZNICK: Right.

COTTERRELL: Is it possible to say where the idea of responsive law came from?

SELZNICK: Even if I had one [an answer], I wouldn’t say.

COTTERRELL: No. [Both chuckle.]

SELZNICK: But I don’t really. I really don’t. I don’t know exactly how that came about. It sort of emerged, and at some point, I remember I was working at our ranch. I wrote some kind of a memo that seemed to capture, to me, what we were saying. But I think I was trying to capture what we were saying, so I think this was all, if not utterly explicit in our conversations, it was very close to.

COTTERRELL: The important point is that the idea was in place quite a number of years before it actually emerged in the book.

SELZNICK: Yes.

COTTERRELL: In the early seventies.

SELZNICK: Right. And I think the other important point is that-- it’s fair to say that all this is a reflection of the connection between social science and the social world. We were trying to bring into social science the sensibility that we had derived from our fascination with what was going on in the world, and the sixties was the time. And the word “responsive” was not entirely new. Other people had used it, especially Ralph Nader. I think he or his people never took the trouble to really analyze it, but they had something called a Center for Responsive Law, I think, well before, in the sixties, in Washington. Maybe it was in the air a little bit.

Also I think that occasionally the legal realists used that word. They were also looking for a responsive legal order. You’ve got to remember that these guys, they shared-- [Roscoe] Pound and-- Even though they had differences among them, they all shared the idea that the law should be an instrument of social policy and that law should serve the public interest generally, but also the specific interests of groups in society, so that [sic; so] much of the discussion of pluralism reflected a sense that somehow all interests should be treated as legitimate.
They didn’t really mean that, but, leaving aside certain extremes, the society is in the business of serving the interests of the people, of individuals who are individuals and of groups, and the groups are to be taken seriously, and their needs and circumstances are not to be overridden but taken account of.

I mean, none of this was all very well thought out, but there was that.

COTTERRELL: Yes. It really does highlight continuities, long-term continuities. You make me think right back to Pound. You have first of all the attack on mechanical jurisprudence and then the emphasis on social interests and law as a matter of serving social interests.

SELZNICK: Right, but if you think about that, that certainly comes through [noise;...].

I’m losing all these wonderful cookies here. I’m going to take them out of this [noise;...].

We tried to make-- I think we did make the point that [bites and chews cookie] what we were saying was wholly continuous with the underlying concerns of the legal realists.

COTTERRELL: Okay. Perhaps we can get back to institutional history and talk about the Jurisprudence and Social Policy program, which was founded pretty well exactly the time that Law and Society in Transition came out, ’78.

SELZNICK: Yes.

COTTERRELL: So just tell me how that came about. First of all, why was there a need for something new? The Center for the Study of Law and Society was in place, well established.

SELZNICK: Well, as I mentioned [chews cookie] in our earlier conversation, during the sixties, while we were working at the Center, I felt a need for much closer connection to the law school world. I felt that the people coming into thinking about the law ought to have more legal-- I wouldn’t say legal training, but more awareness of basic legal ideas and so on and that these should be connected to larger issues. I didn’t want people to be just lawyers, by a long shot. So I had long felt that something should happen that way. And then there were other things going on at the same time.

COTTERRELL: So just to be clear, you mean mainly in terms of the student experience and so on? You hadn’t attracted many law students.

SELZNICK: Right. But not just students. I think one would have wanted more faculty members involved who were senior people, who knew more about the law. I had the idea for a while that--actually, this was a project that was begun but never continued, not so much at the Center but at the Hutchins Center. That was the idea that still I think would be a great idea to do - but it would take, I don’t know, an awful lot of work and support to do it - and that is a book on law for the educated layman, in which there would be essays, not just general essays on the nature of law and that sort of thing but essays on major legal topics, not written for lawyers.

Let’s say if you had an essay on contract, let’s say somebody wrote a hundred pages on contract, it would lay out the fundamental ideas and what it means, what are the legal issues, what are the policy issues, what are the intellectual concerns that have been raised about that, and so on. And the same thing
would be true of torts and property, maybe family law. I mean, a half a dozen concrete topics, plus something on constitutional law, and so on.

So this would be a book for people who were interested in the law, but who could gain it by reading, which you can’t do, really, by sitting down and reading a hornbook or things like that. And I thought this would be of interest to the general intellectual community since law is so central, but even more specifically for students from other disciplines, who would have an interest in law. This would be one of the things that they would master.

We had a project-- Actually, this book of Fuller’s, *The Anatomy of Law*, came out of that project. We had a project that kind of died aborning, that was sponsored by the Hutchins Center. I don’t really remember all the details, but it was very much along this line: My friend Yosal Rogat-- Do you know that name at all?

COTTERRELL: No.

SELZNICK: Yosal Rogat. He was a brilliant guy. He died when he was in his fifties, I guess, right about nine--

[End Tape 9B. Begin Tape 10A.]

COTTERRELL: So when are we talking about, now?

SELZNICK: It would be late sixties or early seventies. The Hutchins Center had a very close connection with the *Encyclopedia Britannica*. [Yosal Rogat was at the Hutchins Center during the years when the *Encyclopedia Britannica* project was being discussed]. Indeed, I think the last few years of the Hutchins Center was significantly funded by the *Encyclopedia Britannica*, and so there was a lot of talk about a new edition of the *E.B.* that would be a different kind of encyclopedia in that it would also have what was called, in the jargon of that time, “roof articles”; that is, very comprehensive articles on major subjects. That never happened.

But what did happen was this difference that was made between what they called the micropedia and the macropedia. Do you know the encyclopedia?

COTTERRELL: A bit. I used to—

SELZNICK: Yes. Well, the new edition - I have a copy of it - has that. [Notices Doris Fine leaving the house.] - On Wednesdays they have noon concerts on campus.

COTTERRELL: Oh, really?

SELZNICK: We go there once in a great while.

COTTERRELL: Yes. I’m keeping you from that today?

SELZNICK: No, not me. I probably wouldn’t go anyway. But they have some interesting things.
Anyway, I was trying to say that I was interested in trying to get people to know more about the law and to know it in a little depth and not only talk abstractly about law but to understand something about basic historical changes that have taken place and the basic concepts and problems and all of that. There is no such thing [as a publication of that kind].

As I say, it was actually begun-- there were various papers presented to develop it, and one of the-- I forget his name right now, but a fairly prominent law professor at [the University of] Chicago - I keep forgetting some of these names now - was helping to take the lead in that. So it got a certain distance. I remember that when it was decided that they were not going to do it after all - E. B. decided they wouldn’t do it - we all got copies of the encyclopedia as kind of a consolation prize.

But it had a certain momentum, but it was, I think, too difficult, too major a project. It would require a strong team of people, presumably even an international group to do it well.

COTTERRELL: But I don’t understand the connection with—

SELZNICK: Well, I mention this only to emphasize the extent to which I felt it was important for us to be closer to the law intellectually. So that was something I was quite aware of during the sixties and early seventies. And then I guess-- I don’t know when, but maybe 1974 or so, there came a time when the School of Criminology came under attack here. I never knew a great deal about that, but there were various questions raised about the School and what it was doing and its role on the campus, and certain committees were established to decide the fate of the School. It was finally decided to disestablish the School.

COTTERRELL: What was the problem with it?

SELZNICK: To tell you the truth, I don’t really know.

COTTERRELL: All right.

SELZNICK: I mean, you’ll get a one-sided opinion about that from the former dean of the School of Criminology, Sheldon Messinger, who has strong feelings about it, that it shouldn’t have happened, you know.

COTTERRELL: Yes.

SELZNICK: I wouldn’t be surprised that the real reason had to do with the fact that the school had attracted, especially some of the younger faculty, some people who were quite radical in their views and were not well thought of and well liked around. I guess you would have to do something I have never done, and that is to actually read the reports of the committees that analyzed the situation, to get--

So there came a time at some point toward the mid-seventies when the issue was posed as to what to do with the resources and what should be the successor to the School, taking as given the fact that this was going to happen. I was appointed chair of a committee to do that. It was during those deliberations that I guess it was mainly I came up with this idea of creating this kind of program in the Law School.

That became, I think, more or less the founding document of the JSP.
COTTERRELL: So by that time, you must have had pretty close relations with the Law School then, to be able to get this moving.

SELZNICK: Yes. We certainly had closer connections. Very important in all this was Sanford Kadish. That’s why he and I are thought of as the founders of the JSP, not just me. Kadish--I think it was during the year that we had this committee, Sandy became dean of the Law School. He liked this idea very much and wanted to make it one of the achievements of his deanship, which it certainly was, so we had the support of the dean of the Law School. And he was very helpful all along, because a lot of work had to be done.

The other person who was a big supporter of this whole thing was the then dean of the Graduate Division. His name was Sanford Elberg. So there was a lot of institutional support for all this.

COTTERRELL: So, on the one hand, the Department of Criminology was going to be disbanded, and so the staff there would need relocating.

SELZNICK: Right.

COTTERRELL: But there would be some resources spare.

SELZNICK: Right.

COTTERRELL: And, on the other hand, what was the idea of the JSP initially? What did you want to create which wasn’t there before, essentially?

SELZNICK: Basically we wanted to create a teaching program in which there would be students from various disciplines who would be in the Law School, who would have the opportunity either to take a law degree or at least it would be part of their requirements that they would take a number of law courses. I think actually for a while it was about half and half, but I suspect lately more people have either come with a law degree or they take a law degree, which, of course, is a very practical thing to do.

COTTERRELL: You’d already got a teaching program in the Center.

SELZNICK: Well, very, very limited.

COTTERRELL: You had got a master’s program.

SELZNICK: Yes, but it was an extremely small thing.

COTTERRELL: And you weren’t really attracting law students--

SELZNICK: No.

COTTERRELL: --from the figures that I got.

SELZNICK: Well, there were--
COTTERRELL: There were a few.

SELZNICK: There were a couple of law students, but it was a very minor thing. It didn’t have any resources to speak of, whereas this would now be an opportunity to move-- I think it was originally ten - we call them F.T.E. positions, full-time equivalent - from the School of Criminology to the School of Law, for the purpose of the JSP. Now, this included, of course, the arrangement that a number of people who were already in the School of Criminology would either come into the School of Law or come more fully into the School of Law.

For example, Caleb Foote-- I think he was partly in the School of Law and also in the School of Criminology, so he would be a full position in the JSP program. Same thing with a psychoanalyst named Bernard Diamond, a rather prominent guy. He also was in the School of Criminology, and he would come into this new program.

COTTERRELL: So was it a complete shift over of staff from Criminology into the JSP?

SELZNICK: The resources, yes. No, some of the younger people didn’t have tenure; they did not come over. I’m not too clear about the details about all this.

COTTERRELL: Certainly some people left at that time?

SELZNICK: Some people left, yes. They went to other places. But I think, as I recall, there were about ten F.T., but some of that was already taken up, like Messinger. He was in the School of Criminology. Maybe Skolnick. I think Skolnick also was in the School of Criminology.

COTTERRELL: So this was a kind of dramatic movement of a kind of critical mass of academic talent-

SELZNICK: Oh, absolutely. Yes, very dramatic.

COTTERRELL: --from outside the Law School into the Law School.

SELZNICK: Yes, right. Oh, it was a major thing, yes, and it took a lot of work, not only the work of this committee recommending it but once it was recommended, the whole thing had to be approved by various university committees. And this was a process. I think that was why I was brought into the Law School a little bit early, in order to be around to take care of the administrative side of this process of getting all these approvals and so on. I worked closely with Sandy on all of that. We both appeared and testified before various committees and things like that.

It was a very unusual arrangement, because we were proposing that the Law School be authorized to give a Ph.D. Where did they come off giving a Ph.D.? But there wasn’t a lot of objection to it. The Law School had a lot of prestige. I think there was a little bit of grumbling here and there, but mostly that.

COTTERRELL: And then they were getting a sudden infusion of a lot more resources.

SELZNICK: The Law School people on the whole-- I mean, it required, I think, Sandy’s good offices to help create consensus in the Law School. Not everybody wanted this. Some people were perfectly happy with the situation the way it was and didn’t want a lot of these outsiders coming in.
And there was also, I think, in the Law School some discomfort with the idea of having an undergraduate program. Remember, we’re not talking about just JSP but legal studies. I felt very strongly about the importance of the Legal Studies Program, and I wouldn’t yield on that, for various reasons, including institutional reasons. There is no good reason why the taxpayers of California should be supporting people who were only involved in a graduate program or who might be teaching law students. I mean, it seemed to me they should make a contribution to undergraduate education; besides which, I thought, on more intellectual grounds, that it was important in America to have legal studies as a strong option for undergraduates.

COTTERRELL: So this was a really revolutionary thing, wasn’t it, to actually have a legal studies program, an undergraduate legal studies program, in a law school?

SELZNICK: In a law school, yes. As a matter of fact, the whole thing was revolutionary. Having the Ph.D. program in a law school; that was also revolutionary. But this idea did have very strong support. As I say, the dean of the Graduate Division, who was really a key person, he was very enthusiastic about the whole thing and willing to see it happen.

COTTERRELL: So there was a very close relationship between the now-defunct Department of Criminology and the staff coming into JSP and the Law School. But I’m not clear what the relationship was with the Center in all of this.

SELZNICK: There really wasn’t any. For a time, I even thought, “Well, maybe the Center is irrelevant and we don’t really need it anymore,” but other people probably were wiser than I and suggested, “No, we better not do anything about that and keep it as a separate, free-standing thing, not make that part of the Law School,” maybe in part just for a very practical, immediate reason that the Center already had some budget of its own coming from the University, and nobody wanted to sacrifice that.

COTTERRELL: Right, and it was still getting external funding, I suppose.

SELZNICK: Yes. Well, that could have happened anyway, external funding, but getting a core budget from the University - that was a long drawn-out process.

COTTERRELL: You were going to hang onto that, yes.

SELZNICK: Yes, they wanted to hang on. But I think as things have worked out, it probably made sense to keep the Center, because it provided a sort of understandable way to bring in a variety of people, as Bob [Kagan] has done in his work.

COTTERRELL: So as of, say, a year or a couple of years after the JSP was founded, the situation would be that you have got the Center for the Study of Law and Society still with a very small permanent staff--

SELZNICK: Yes.

COTTERRELL: --the director, assistant director. And you’ve got the JSP in the Law School with a large staff of about what? A dozen or something like that?

SELZNICK: You mean faculty people?
COTTERRELL: Faculty, yes.

SELZNICK: Well, probably originally there was-- Well, we can count them: myself and Philippe [Nonet] and Jerry [Skolnick] and Shelly [Messinger] and Bernard [Diamond] and Caleb [Foote]. That’s six. There might be originally maybe eight people. We hadn’t filled the whole--

COTTERRELL: I’ve got a list here.

SELZNICK: You do?

COTTERRELL: [The] “initial core faculty group”, including Sanford Kadish, Philip Selznick, Skolnick, Sheldon Messinger, Caleb, and Philippe Nonet. And then fairly soon you appointed Martin Shapiro, I think, Robert Cooter--

SELZNICK: Yes.

COTTERRELL: And then later-- lots of people later.

SELZNICK: Right. We had many problems about recruiting after that. But yes, that’s the way it looked. In principle, there was an allocation of ten F.T.E., but they weren’t all filled at that time; there were positions to be filled: somebody in history, economics; political science, and philosophy especially.

COTTERRELL: Okay. And then so far as students were concerned, the JSP was offering a Ph.D.

SELZNICK: Yes, M.A., Ph.D.

COTTERRELL: An M.A. and Ph.D. And law students could be jointly registered for--

SELZNICK: The J.D.

COTTERRELL: --and the JSP.

SELZNICK: I don’t know the present situation, but for a long time, the Law School, in order to avoid people having a backdoor admissions advantage, required people to apply separately to the Law School for admission, so you had to go through the regular admission procedure. You couldn’t get into Boalt by way of becoming a JSP student alone. But that doesn’t seem to have been a serious problem.

COTTERRELL: Yes. All right.

I’ve got this from one of the reports, maybe [from] the early nineties. I think it’s something Harry Scheiber wrote: about 30 percent of the students do the J.D. and the JSP program simultaneously; another 30 percent come to JSP already holding a J.D.--

SELZNICK: I see.

COTTERRELL: Some have taken an M.A. elsewhere.

SELZNICK: Yes, that makes sense.
COTTERRELL: By 1992, twenty-four had graduated.

You said that there was some suspicion of all of this, but basically the Law School was persuaded and they were quite happy to take on the new program. Was there some reluctance from people to move? I mean, they’d been in Criminology, and now they were being absorbed, in a way-- well, “absorbed” is the wrong word, obviously, but they were becoming part of a big law school.

SELZNICK: I wasn’t aware of any problem. I know that Shelly objected to the whole idea, not to the JSP program - he never said anything about that - but I think to the original dismantling of the School of Criminology. I’m sure if you talked to him, you’d get some kind of a story, but it would be a very partisan story. After all, he was the dean.

COTTERRELL: And meanwhile, while all this was going on-- Well, as far as the Center is concerned, you’d stepped down as chair of it in 1972, I think, and Jerry Skolnick had taken over.

SELZNICK: Right.

COTTERRELL: When JSP was set up, were you much less involved, really, with activities in the Center and what was happening with it? You must have had your hands full, really, with the new venture.

SELZNICK: I don’t think I was uninvolved. I think I was very closely involved, except that I thought somebody else ought to take responsibility for keeping things going.

COTTERRELL: Do you remember who was the chair of the Center at the time JSP was set up?

SELZNICK: I thought it was Jerry.

COTTERRELL: Still? But he was one of the people who came into the Law School.

SELZNICK: Yes.

COTTERRELL: So it’s a quite complicated setup. The Center was still independent, but it was being run by someone who had now become [part of the Law School]--

SELZNICK: Yes, but that didn’t matter. It could have been somebody from some other department. It really was not important.

COTTERRELL: Yes. Yes. And when JSP was founded, I gather that the Center was put under the immediate direction of the dean of the Law School.

SELZNICK: The Center?

COTTERRELL: Yes. It was a kind of constitutional change.

SELZNICK: I suppose that’s true. I can’t confirm that because I don’t think I was involved in that. I suppose that might be true. I didn’t think it was true. I thought there still remained, really, a separate--
but I think there were certain changes that took place after I was not so much involved with that, having to do with the structure and the governance of these ORUs, the organized research units, on campus.

COTTERRELL: I think one of the reports I’ve read says that—when JSP was set up that there was this constitutional change for the Center, but Jerome Skolnick kept the Center’s independence very clearly in place.

SELZNICK: Right.

COTTERRELL: So presumably it was just a constitutional arrangement.

SELZNICK: It might have been some kind of formal arrangement that probably nobody paid a lot of attention to.

COTTERRELL: Right. Yes.

SELZNICK: I’m sure the dean of the Law School didn’t take it on himself, whoever it was at the time, to interfere with the work of the Center.

COTTERRELL: So in terms of what JSP was offering students from the beginning, it was offering supervision for Ph.D.s, and it was offering taught courses, a range of taught courses within—

SELZNICK: Within JSP, right.

COTTERRELL: Yes.

SELZNICK: We had various courses, an orientation seminar and then there were specialized courses given by whoever the faculty was. And they were, of course, encouraged and required, even, to take law courses, even if they weren’t J.D. students. You know, a lot of problems had to be worked out there because the Law School wasn’t accustomed to having non-J.D. students around, and so you had to facilitate their taking, for example, the legal research tutorials that the Law School offered. You know, things like that. But it was normal administrative problems that arose.

COTTERRELL: So non-law academics, academics coming from Criminology and so on, would be teaching the Law School. And then I gather that Boalt law faculty would also be teaching undergraduate courses in the College of Letters and Science.

SELZNICK: [Coughs.] Yes. Some of the Law School people seemed to particularly enjoy having the opportunity to teach undergraduates. I remember John Noonan, who became an appellate court judge later on—He taught rather regularly on the Legal Studies Program, and several of the others have done that, too. Of course, I thought that was a wonderful thing because it very much enriched the undergraduate program. But it did offer that opportunity. People had to work out things about their course loads with the dean and things like that, but—

COTTERRELL: Presumably, that must have given Berkeley a real head start with a legal studies program, given that, as far as I know, legal studies programs elsewhere invariably were taught not by law school staff but by sort of liberal arts people.
SELZNICK: Yes. Well, I don’t know what that would mean, “to give it a head start.”

COTTERRELL: Well, I mean, a lot of students doing a legal studies program would be thinking of continuing with legal studies and going to law school.

SELZNICK: Right. That’s one of the dangers of a legal studies program, that people who think that they might want to become lawyers want to take it. We were interested in creating a major, a course of study that would be a liberal arts thing and not a preparation for law school. So I wasn’t looking at it that way; I was saying that insofar as some of the people who were interested in teaching legal studies, they were simply very able people, people who knew a lot, that was a good thing for the students.

COTTERRELL: In terms of yourself personally, you’d made a major switch, a switch that had been going on over a number of years, but now you were actually in the Law School, Professor of Law and Sociology. Did you feel that your links to sociology were becoming somewhat attenuated?

SELZNICK: Well, yes. I think I did. It probably didn’t bother me for the first couple of years because I was so busy, but I think that certainly has been a result. And there were other things that were going on in my life that were very important at that time. When I was participating-- I think Martin Shapiro and I were leading the program for the initial core group of people in JSP, and that fall is when we learned that Gertrude had cancer and she didn’t have very long to live. So I dropped out for that year. I mean, I wasn’t completely dropped out; I did keep involved to some extent. But as far as teaching was concerned, I dropped out.

And then for a couple of years after that-- then Gertrude died, and it was an enormous crisis in my life. I moved back to Berkeley, bought this house. I mean, there was a lot of stuff going on.

COTTERRELL: You said you moved back to Berkeley?

SELZNICK: Well, yes. What had happened was that a year or two before Gertrude got sick, we had bought a place more or less out in the country, up about an hour’s drive north of here, in a little area called Geyserville. It wasn’t very big; it was about five acres. It had an old house on it and things like that. That was being remodeled. In the meantime, we sold the house [in Hillcrest Road, Berkeley.]

[End of Tape 10A. Begin Tape 10B]

COTTERRELL: Gertrude had wanted to live in the country?

SELZNICK: She wanted to live out in the country. Early in the seventies, we had sold another place that we had, up in the foothills of the Sierras. It was a much bigger place, where the kids were. Then we went to England, and when we came back, it was now 1973 or something like that.

COTTERRELL: You said, “where the kids were.” You’ve got a daughter.

SELZNICK: Yes, my daughter-- In 1965, I think, my daughter got married. Remember, this was in the middle of the sixties. She and her young husband were interested in living in the country. We were interested in having a place in the country, so we sort of put the two things together, and we bought this place. It was really sort of a ranch out in the foothills [near Placerville]. It was about ’65. They had a couple of babies. Well, they had one baby before they moved there; that was my granddaughter. And
then two boys were born shortly after that, in ‘65 and ‘68, I think. But they lived for about five years on this ranch. And so we were able to have a lot of contact.

COTTERRELL: Yes, it must have been a nice time.

SELZNICK: It was a good thing, and I was glad that Gertrude had those years of close contact with her grandchildren, particularly. But then, for complicated reasons, the kids left. They went to Wisconsin. And so we had this problem of having a house in Berkeley and taking care of this place in Placerville, or near Placerville, and it got to be very burdensome. At some point, I think-- and then we were spending this time in England-- I don’t know, we decided to sell it, which we did.

And then, not too long afterwards, Gertrude was still feeling well-- by this time, she was teaching; she was very successful as a teacher in sociology and well loved.

COTTERRELL: She was a professor in the Sociology Department by then.

SELZNICK: Yes. She was well loved. But I think she was getting too tired, didn’t really want to do it, and so we bought this other place, a much smaller place, in a different area. We were going to gradually live there. We had bought a much smaller house, a little bit of a house, in an area closer in, Montclair, part of Oakland, really, in the hills there. So we had that place, and we had the place up in Geyserville. We had moved out of this Hillcrest house.

COTTERRELL: This is the one down the road? [from his present house]

SELZNICK: Yes, down the road. And I think that all happened not much more than a year or so before she got sick. But during that year, the house in Geyserville was being remodeled. It should have been torn down, but Gertrude liked it the way it was, so we had it remodeled by some local person. That took about a year. Very soon thereafter, in the fall of ‘78, Gertrude learned that she had this cancer. But that house was ready. We could live in it. So we went up there to live. I commuted a little bit to Berkeley, enough to sort of keep in touch with things and do a little bit.

So I was away for a good part of ‘78 and ‘79. Not entirely away. Students came to see me. I was involved in some administrative things that still had to be done, things like that. I think I arranged to get some outside support for the program. But mainly I wasn’t doing much. Mainly I was just taking care of Gertrude.

How did this [discussion] start? We were talking about-- I said I was away.

COTTERRELL: That’s right, yes.

SELZNICK: Well, I was in Geyserville a good part of the time. I say Geyserville. That was a small town near where we were. And then after Gertrude died in September of 1979, I stayed up in Geyserville for a few months, and then finally got this house [i.e. where he currently lives], and I came back to Berkeley. The following year, I was teaching again, and I did teach something in sociology. I began teaching something that was a kind of lead-on, precursor to the work I was doing on The Moral Commonwealth. By that time, I had decided that that was really what I wanted to do. I wanted to work
on that book, and I had a fair idea of what I wanted to do. But I really didn’t have time to do much teaching in sociology.

COTTERRELL: No, I can imagine.

SELZNICK: And so the answer to your question, very briefly, is yes, there was a lot of attenuation of my involvement in the Department. I became more and more detached from the Department, more involved with the JSP and the Law School program and so on.

COTTERRELL: But insofar as you were still doing some teaching, it was still in sociology, in the Sociology Department?

SELZNICK: I taught some there. Well, in the following year I was teaching in JSP, too, but I did teach one course in sociology, yes.

COTTERRELL: But I suppose it really was a kind of final rupture, in a way, with the Sociology Department. I suppose when you got back in to work and tried to pick things up and so on, it was entirely with JSP then?

SELZNICK: Yes, that was my major commitment, my major concern. Philippe [Nonet] was still in Sociology also, though, and later he arranged to come full time to the Law School. But originally that was not the idea. It was the idea that he would stay in Sociology and pursue things. But, you know, in academic life, those things don’t always work out the way we wanted them to.

COTTERRELL: That’s right.

SELZNICK: People have their own interests and their own demons and so on.

COTTERRELL: Yes.

SELZNICK: How are we doing with time?

COTTERRELL: Well, it’s sort of-- We’re halfway through the last tape. We could break now if you want to.

SELZNICK: Yes, I guess I’m a little tired.

COTTERRELL: Okay.

[End of Interview #5. The conversation is continued on Tape 11.]

[Transcriber’s note: Tapes 11 and 12 are transcribed as Interview #6, a separate transcript.]
ROGER COTTERRELL: I wanted to ask you about something to do with methods, methodology and so on, because we talked about that a bit earlier - I mean, what sort of background in methods students should have to do certain kinds of things. We talked about sociology methods. In the Jurisprudence and Social Policy program, the aim, as I understand it, was, at the postgraduate level, very much to take in law students and give them a sort of broader picture of law in society.

PHILIP SELZNICK: To take in law students?

COTTERRELL: Yes.

SELZNICK: I don’t think that was a major idea, no.

COTTERRELL: Oh, it was just part of it? Because you hadn’t really done that with the Center--

SELZNICK: Right.

COTTERRELL: --but JSP being based in the Law School?

SELZNICK: The JSP would have students of its own, these very precious graduate students, plus of course students in the Legal Studies Program, undergraduates. So I don’t think a lot of attention was given to the idea of bringing law students in, but, of course, they do [come in]. I think to some extent there was an assumption, which I think has been borne out, that JSP faculty members giving a seminar would attract not only a few JSP students in each one but also some law students. And I think in that sense, it would be law students brought it. But I don’t think we had any - or anybody had any - definite ideas about having it have a significant impact on the law students.

COTTERRELL: Okay. But something in one of the reports, the JSP reports, said [that], as an aim, “The faculty has sought to assure that each student will be fully qualified in a traditional academic discipline... in addition to mastering the core literature of the interdisciplinary study of law.”

SELZNICK: We’re talking about graduate students here.

COTTERRELL: Yes. So--

SELZNICK: Not the regular law students, not the regular J.D. students but the JSP students.
COTTERRELL:  JSP graduate students, yes.

SELZNICK:  Right.

COTTERRELL:  I wondered how far that was really a practical aim, to ensure that they had a solid background in a particular discipline, given that you were taking them from a number of different disciplines.

SELZNICK:  I think it’s not been too unrealistic. I think you might have to get more information from somebody who’s been in touch with things more recently, but my impression is that students did understand that they might well be candidates for jobs in particular disciplines and that they ought to become comfortable in those disciplines and kind of know the basics and know the people and things like that.

COTTERRELL:  But it wouldn’t be JSP’s responsibility, as such, to do that?

SELZNICK:  No. I think the students would do it themselves. They’d take several courses in, let’s say, political science; I think that did happen, and they would develop some professional identification with political science and know what it means to be a political scientist in America today, and the same thing, in theory, would be true of other disciplines.

I haven’t studied the distribution, but my guess is there’s not an awful lot of JSP students [who] have gone into the variety of disciplines. Some of them I know have gone into political science but that was, in a way, the easiest one. Whether there are JSP students who have gotten appointments in sociology or economics, I’m not so sure.

COTTERRELL:  Political science was the easiest one because political science in America has a strong interest in law anyway?

SELZNICK:  Yes. And also because of the prestige of someone like Martin Shapiro, whose recommendation would be taken very seriously by most people.

COTTERRELL:  Right, yes. So was the idea from the beginning, really, that in terms of job prospects for students coming out of the JSP-- the idea would be to equip most of them for some academic position?

SELZNICK:  I think that was at least a tacit assumption, yes, that somehow or other there would be academic positions. I think more recently people have set their sights on getting-- especially people who get the J.D. as well-- on getting a job in a law school, and that’s not necessarily been the best thing to do because the kind of dissertation that somebody would write that would be appealing to a law faculty might not be the kind of dissertation that you would really want them to write.

But I don’t know. I don’t really know enough to answer that question.

COTTERRELL:  But when JSP was set up, you must have been-- the sort of hard-headed planning that you were doing--

SELZNICK:  Well, we didn’t do so much hard-headed planning.
COTTERRELL: [Laughs.]

SELZNICK: We assumed that if the program was successful and the people were good, that there would be jobs around. And I think on the whole, that’s been true, because we weren’t really talking about a lot of people, although it does add up, it’s true, over the years. But I think we thought that there might be some people who would go into more policy-oriented jobs. Some people would go into some kind of liberal arts college or program. Our hope was, as is reflected in that statement, that there would be at least a reasonable number of people who would get jobs in the disciplines, in part because we wanted to encourage the disciplines to have this as one of the main fields that people would get involved in. I don’t know how successful it’s been. I don’t think it’s been too successful.

COTTERRELL: What’s not been successful?

SELZNICK: The idea of getting people into these disciplines, because the disciplines are very jealous of their separation. But I don’t think they would be. I think this reflects one of the difficulties in having a law and society movement, a law and society association. If social science and law had been made stronger in other ways so that certain departments, particularly in sociology and political science - four departments, I would say: political science first, sociology, history, and economics-- [if] the major departments in each of these fields would think, “We really need somebody who knows something about law and is interested in law and whatever field it is, and that it’s a real gap in our program if we don’t have that.”

But how does that come about? I think it comes about because within the discipline there’s a certain amount of writing; there is activity, journals; there’s sessions at conferences, all of which bring that specialty to the fore; in addition, of course, simply to the authority that comes with intellectual achievement.

COTTERRELL: That was an aspiration, in a way?

SELZNICK: That was more of an aspiration, and a kind of a faith that somehow it would work out. We did have this backup situation. Maybe not everyone thought of it explicitly, but the idea that at least a reasonable number would get J.D.s meant that, in some cases and this certainly did happen - in some cases, people would drop out of academic work and simply become lawyers. That has happened, I think. I don’t know how many people, but certainly it has happened.

COTTERRELL: Yes. I still find it something of a puzzle that law has not been able to get itself an established position in, say, most sociology departments.

SELZNICK: I think it is a puzzle.

COTTERRELL: It’s not just an American phenomenon; plainly, it’s general.

SELZNICK: I think a lot of it has to do with the fact that people feel they need a lot of specialized training to talk about law, and that’s why these books I was telling you about might make a difference.
COTTERRELL: Yes. And yet that’s a strange attitude because you could equally say people need an awful lot of specialized training to talk intelligently about sociology, to get the background.

SELZNICK: But that’s what sociology is doing. The department is giving you that. But if you take some specialized area, like— you could have, if you wanted to, a specialized area of “sociology and...”; well, we do have that. There developed this field of organizations, and so it was something of a gap for sociology departments not to have anybody who was interested in organizations. But political sociology, industrial sociology, organizational sociology—those were all marginal areas for many, many years, without any representation.

But then, as a literature developed in that field, it became more significant. And sometimes these are just fads, like for a while, ethnomethodology was something of a rage, and it could be argued within some of these departments that they ought to have somebody from ethnomethodology, because it was so important. I don’t think that’s true anymore, as far as I know.

So I think a lot depends on what goes on outside the departments, whether the field as a whole is given a larger significance. If people did more writing about the classics and law, that might be important, too. I mean the sociological classics. Lots of people are not really aware of that. They don’t think about it.

A lot of it has to do with just these shifts of academic public opinion, many of which are somewhat unpredictable and have to do with the viewpoints or the work of some leading figures.

COTTERRELL: So would it be fair to say that when the Jurisprudence and Social Policy program was set up, in a way it was another act of faith? You weren’t quite sure what the job market was going to be like—

SELZNICK: Right.

COTTERRELL: --but you assumed that there would be increasing interest in law? And I suppose there was evidence of a broadening of concern. The law schools were changing, had changed significantly.

SELZNICK: I think we had good reason to have that faith. It wasn’t based on nothing, but it’s fair to say it was basically an act of faith. There wasn’t a hard-headed working out of just what were the real job prospects for people. No, I don’t think so.

COTTERRELL: Yes. And what about the undergraduate legal studies? I’m not quite clear whether that started immediately, or whether that was slightly later.

SELZNICK: I think officially it started immediately, yes, but—Well, I mean, technically it was at least authorized as part of the whole program. Whether the actual courses were given in 1978, I’m really not sure. That’s something you’d have to check up. But it basically started at the same time.

COTTERRELL: And as far as those students were concerned, what did you see as the aim with them? What were you trying to do with those students?

SELZNICK: We were simply trying to offer them another important option for a liberal education; in other words, that they, as an alternative to some broad field like sociology or political science, they could focus more strongly on understanding law, since it brought to bear so many different aspects of a liberal
education. It seemed to me, from a larger, long-run point of view that the development of such a focus would enrich higher education in America. I have no doubt about that.

COTTERRELL: And the sort of view that you’d be developing in your own work about law, bringing in philosophy, sociology, and the whole range of things--

SELZNICK: Certainly history.

COTTERRELL: Yes, the whole lot. This would be the kind of, well, in a way, a sort of substitute for a disciplinary basis? It would be a package?

SELZNICK: Yes, right, and not a disciplinary basis. As a matter of fact, at least some of us had the idea - it may have been a bit of a conceit - that the Legal Studies Program should not have courses like “Law and Sociology,” “Law and Psychology” and so on; they should be more substantive - courses on foundations of law, courses on this or that, but not identified by discipline. You didn’t want to see it that way, but as addressing certain intellectual and historical and related problems.

COTTERRELL: So at that level, it wasn’t necessary to give a kind of methodological foundation in disciplines for those students.

SELZNICK: No. It didn’t seem like that was-- and I don’t think-- Undergraduates don’t get that anyway. I mean, maybe they do. In sociology they get something. They get basic research methods or even survey research or something like that. But undergraduates were encouraged to take courses in other departments, and they always did, of course.

The danger in the Legal Studies Program was more, I think, that unless a lot of work were done to maintain its high quality and high standards, as usual in these programs in a university like this it tends to- - people tend to drift toward, to turn it into a weaker program and a refuge for students who are not all that serious.

And, on the other hand, people are too vocational. People want to take legal studies because they think it will help them get into law school.

COTTERRELL: Did you find that with a lot of students?

SELZNICK: I think there was a certain amount of that, but I don’t know whether it has continued, because I think the point has been made many times that: “This isn’t going to help you. If anything, it would hurt you.” Law schools mostly would rather have people who have a broader education coming in, so it’s not for getting into law school.

COTTERRELL: Is it possible to generalize about the difference in experience in teaching law students and sociology students?

SELZNICK: I don’t have significant experience teaching law students, so I don’t really know.

COTTERRELL: Oh, no. Of course, you were teaching sociology, were still teaching sociology.
SELZNICK: I was not teaching. This started at a time when I was already doing other things, and I did not teach any legal studies courses, so I couldn’t make a real comparison. I would guess that that wouldn’t be a comparison with law students anyway; it would be a comparison with sociology students. I’m sure there wouldn’t be much difference.

COTTERRELL: Right. Yes.

One thing I’m not quite clear about is how you viewed disciplinarity, how you see the importance--

SELZNICK: How I view what?

COTTERRELL: Disciplinarity, the importance of a discipline and relating your work to a discipline. On the one hand, we talked about the importance of methodological groundings for graduate students and students who are going to go on to do research. On the other hand, we talked about the virtues of providing a broad package, which doesn’t involve any particular concern with disciplines, for undergraduate students. Is it possible just to draw a clear line between the position of undergraduates and the position of postgraduates, and disciplinarity only really becomes important when you’re thinking in research terms?

SELZNICK: I wouldn’t put it that way. I think the importance for the graduate students really had a lot to do with their career plans, since this is the way higher education was organized. To a significant extent, it would be necessary to belong to a discipline and to have some credentials so at least you’re not a stranger in a discipline. Whether the discipline, itself, is necessary intellectually, yes and no.

For history, I think for somebody to do historical research on law, for example, it certainly would be a good idea to have professional training in historical research and know what it means to deal with primary data or know what it means to produce something that shows scrupulous care in developing historical arguments. So I think the ethos of work, not so much the perspective, because historical perspective varies so much, but I think there is a kind of ethos among historians which you would like to see communicated to anybody who would feel that his main interest was in doing legal history.

I think sociology also has important intellectual perspectives to bring to bear, so that thinking like a sociologist means something. There are certain aspects of society and certain concerns with institutions, with certain kinds of interactions and the social structure and so on, all of which needs to be part of your formation as a scholar, if what you are going to do is take a sociological point of view.

I’m more skeptical about political science. I’m not sure there is such a thing as a political science discipline because it’s more of a congeries of areas of study that have to do with government, and, while you could identify some very obviously important work in what would be called political science and people should know about that, I’m not sure there is a distinctive orientation, although historically there is sometimes a distinctive orientation, as, for example, in the fifties and maybe sixties also, they developed so-called behavioralism in political science.

COTTERRELL: Yes. Yes.

SELZNICK: So presumably, somebody whose work would take them close to the work of political scientists should know about behavioralism and maybe even have a mind that was to some extent shaped by that, by those concerns. So there are political science aspects that are really important, like knowing
what pluralism is and what the importance has been of pluralism in the development of government and the relationship between government and citizens, the nature of citizenship and civic participation. There’s a whole set of ideas that don’t maybe amount to a distinctive perspective, but they certainly are ideas that people need to know about if they are to communicate with political scientists and maybe, to some extent, think like a political scientist.

COTTERRELL: Yes. I think this question of disciplinary foundations is really important in socio-legal studies, law and society: whether it’s necessary to cling to a label so that everybody says ultimately, “I’m a sociologist working on law” or “I’m an economist,” “I’m a political scientist,” or whether you can eventually get to the point of saying, “Well, this field is law, and we look at it with whatever methods seem appropriate to the task in hand.”

SELZNICK: Right. The latter is really what we would favor.

COTTERRELL: That’s what I thought you’d probably say, but then in 1978, when JSP was founded, and now, say, is it very important to you to say, “I am a sociologist”?

SELZNICK: I don’t think it’s intellectually important, but it might be important from a career standpoint.

COTTERRELL: A practical thing.

SELZNICK: Somebody whose idea it was that, well, a good place for me to be, to spend my life as a scholar and a teacher would be in a sociology department-- It probably would be a good idea to in some respects share that identity. But maybe what I was saying earlier about classics is maybe even more important. Knowing the classic work and the main streams of work in a particular discipline is not easy to come by if you’re not part of it. So people do come by that, they at least know that, and whether or not that makes them a sociologist or a political scientist or what have you is maybe not so clear, but it may be all that’s involved.

COTTERRELL: In a way, that opens up the question even further, because if you think of Durkheim, say, it was very important to Durkheim to say, “I am a sociologist, and what I am doing is building sociology.”

SELZNICK: Yes.

COTTERRELL: On the other hand, with Weber, according to some interpretations at least, Weber could never really make up his mind what he was. He was a historian at one point, an economic historian.

SELZNICK: Economist.

COTTERRELL: Economist, and maybe at the end of his life, a sociologist.

SELZNICK: He wasn’t teaching, either.

COTTERRELL: Yes. Yes. So in a way, it’s a practical issue. It’s not an intellectual issue.
SELZNICK: I think it’s more of a practical issue, but I wouldn’t underestimate the importance of bringing to bear an intellectual tradition, no, and of being grounded in an intellectual tradition to help you focus on and identify the problems that you want to deal with and maybe even some of the strategies that you would use in thinking about it.

I certainly think that sociology has been an extremely important matter for me. It seems to me whatever have been the twists and turns of my intellectual life, they certainly have been within the framework of fidelity to sociology. I might have my own views about sociology and the limits of some perspectives and the strengths of others, but still, basically, I think of myself as a sociologist, and not only because I had all these institutional affiliations but because I think I think that way.

COTTERRELL: I don’t want to push it much further, but we mentioned ethnomethodology earlier. That’s one of way of doing sociology. You could also talk about structural functionalism, and that’s another way of doing sociology. You could list a number of others. So when you think of yourself as a sociologist, are you thinking of yourself as someone who’s in a way, somehow plugging into all of these different things?

SELZNICK: I do. I think all of these things, and others, are part of the furniture of your mind. You’re sensitive to them. You’re aware of the nuances of some of the concepts that bear on these, like the concepts of social structure and the components of social structure, culture and its components, and things like that. And then, in dealing with particular problems, you have that furnished mind available to approach it in a certain way.

COTTERRELL: So would it be fair to say that in a sense it’s a resource rather than a discipline? You have a resource which is available to draw on.

SELZNICK: I think that is right. It is a resource.

COTTERRELL: That’s the way I would see it.

SELZNICK: But I wouldn’t contrast that with a disciplinary orientation because that’s what I mean by a disciplinary orientation, that you do have available that resource. Just what exactly that means might be different in different people, but for many people, it would be simply knowing the classics. I’m an economist because I know what [Alfred] Marshall had to say and Pareto and Schumpeter, and people like that. I’m a sociologist because I know about Weber and Durkheim and George Herbert Mead and all of these. These are people that are part of the currency. And I know them reasonably well, so that I can inform my work with the ideas that they represent.

COTTERRELL: Just in passing, you very rarely mention Parsons, or at least in our conversations you very rarely mention Parsons.

SELZNICK: Right.

COTTERRELL: And yet some people would say, in terms of the formation of sociology in America, this guy is there right in the center.

SELZNICK: Yes. I don’t agree with that. I don’t see why one would say that. I mean, I had great, great respect for Parsons’ book, The Structure of Social Action, as a tour de force in intellectual history,
and that’s a very sophisticated restatement of the ideas of Durkheim and Weber and Pareto and, I guess, Marshall.

[End of Tape 11A. Begin Tape 11B]

SELZNICK: [Talcott Parsons] helped to provide a model for sophisticated analysis of the relevant history of thought, and in that sense helped to move sociology in a direction of much more sophisticated and more rigorous thinking about ideas.

But, while Parsons helped to frame a certain debate for a while about functionalism, I don’t believe that there’s anything, apart from The Structure of Social Action, that he did that one would consider a real sociological classic.

COTTERRELL: Okay. Yes.

All right, could we move on to talk about communitarianism?

SELZNICK: Okay.

COTTERRELL: When did this appear on the horizon for you?

SELZNICK: As I told you, around 1979 or so, I began thinking about doing this book, and I even decided on the title, The Moral Commonwealth. I know that I was thinking about it while—in my little study up at Geyserville, so that [sic; so] it had to be during 1978, ’79, during that time. I then wrote a prospectus, and, while there were a lot of changes along the way, the basic structure of it remained the same, I think: four basic parts and what they were and so on.

I was working on this in the eighties, and it wasn’t because of the communitarian discussion. I had already had, in my outline for the book, a part that I called “The Moral Community,” which was Part Four of this book. And then I began to hear about and read about this argument, this communitarian argument, and I said to myself, “Well, it looks— that’s where I am. I’m thinking that way.” A lot of what was being said in that communitarian discussion seemed to me to resonate with both what I was doing and thinking personally and also with the foundations of sociological thought.

An awful lot was made of ideas like— I mean, Charles Taylor was writing essays about atomism, for example. Well, the critique of atomism was part of basic sociology for a couple of generations. The whole idea of a social self, the idea of human interdependence. Many of the themes that were associated with the development of communitarian ideas were, it seemed to me, wholly consistent with sociological reasoning. So that’s really how it began.

Then I began to think a little bit more fully about it, and in about 1986 actually, I think kept one of the posters in a frame there— I think in the mid-eighties at some point, when I retired from the Department of Sociology, they asked me to do a kind of valedictory lecture, which I did, and I called it “The Idea of a Communitarian Morality.” We’re talking now about 1986 I don’t know what it was.

COTTERRELL: Eighty-four, you retired.

SELZNICK: Eighty-four?
COTTERRELL: Yes.

SELZNICK: Yes, but I think that meeting was in ‘86. And so I gave that lecture here on campus, and this was something I wrote out, and the article, after some revisions, was published in the California Law Review. So that was my first statement sort of accepting the communitarian identification. It seemed to me to be a natural thing in that, just as I didn’t associate sociology with conservatism - on the contrary, it seemed to me, much of sociology could be understood in a quite different way - so I didn’t identify communitarianism with conservativism, which many people were doing and-- Well, that’s how it started.

COTTERRELL: So initially it was the communitarian philosophers that you were reading, particularly [Michael] Sandel and Taylor and so on?

SELZNICK: Yes. I guess I read something of [Amitai] Etzioni’s, too.

COTTERRELL: I was going to ask you-- I don’t have the chronology straight, myself. Was it true that Etzioni was a student of yours?

SELZNICK: Yes.

COTTERRELL: Right, in the fifties. So that was in the Sociology Department here.

SELZNICK: Yes, he was in Sociology. He got his degree here.

COTTERRELL: Yes.

SELZNICK: Yes. But Etzioni was a student in a special way. I mean, he came here from Israel. One had the impression that he had his dissertation under his arm already.

COTTERRELL: [Chuckles.]

SELZNICK: I mean, he was just racing through the program here and going on to do his own thing. He wasn’t a student in the same way, let’s say, that Philippe [Nonet] was a student, who was spending years kind of deeply internalizing what he was getting here, and other people, too. I think Etzioni was doing his own thing early on. And so while technically he was a student here--

COTTERRELL: He was a graduate student in the Sociology Department?

SELZNICK: In the Sociology Department. I mean, technically he was a student of mine, but I would not say that I had a big influence on him. I never thought I did. I mean, maybe I had more than I thought, because he did go into organization studies and wrote about things like that.

COTTERRELL: Yes. So the concept of community, you’d already been working with for a long time, in one way or another?

SELZNICK: Well, implicitly and tacitly at least, I had been. When I look back on it, it seems to me I had been working on it for a long time. I didn’t give it, as a concept, very much thought. It was just some implicit ideas that I had, but I had never really addressed it that directly. Even in our textbook [Broom and Selznick, Sociology: A Text with Adapted Readings], we gave it a kind of relatively
superficial rendering and didn’t do a lot with it. So I would say on a sub-surface level, it was a very important idea for me because even back in the TVA [Tennessee Valley Authority] study, when you talk about organizations and their environments, that’s another way of talking about organizations and the surrounding community.

I was quite interested in the impact of the TVA on local communities. I think that later on– and I was interested--without really realizing it, I think I had in my mind this transition that I later talked about, organization to institution to community, that in the formation of institutions, one of the major options available to people is the formation of community, and institutions are often made stronger if they have the sources of cohesion that we associate with community.

We sometimes talk about the university community or the law school community, things like that, by which we mean something that cuts across the boundaries, say, between students and teachers; and teachers, students and staff, or what have you; alumni members-- you know, there’s a broad array of members of different kinds that help to make up the larger community, and they’re bound together by certain shared experiences and by certain loyalties, some shared understandings and so on, the things that go into a community.

When I was writing about institutionalization in organizations, I was kind of fascinated by this idea of transforming organizations into institutions, but latently, I think there was this idea of community, because you’re creating a common culture, you’re creating the nexus of interdependence among departments, you’re using leadership to try to create shared understandings and common bonds and so on.

And also the idea of community is implicit also when you begin to enlarge the idea of institution. And so in Industrial Justice I was really talking about that, because I was saying, in effect, the enterprise has to be understood as including, as many people have said in recent years, a variety of stakeholders, and especially bringing in the employees, recognizing the employees as members. And so there was, again, some tacit understanding of community.

COTTERRELL: Yes.

SELZNICK: Even this goes back to [Chester] Barnard, because Barnard wrote about-- it interested me that some of his passages have always remained with me-- about the problem of who was a member and what does it mean to be part of an enterprise. What about your customers? Aren’t they part of your enterprise?

COTTERRELL: Yes, right.

SELZNICK: Things like that. So he was implicitly talking about the ways communities are formed that include the core enterprise, its suppliers, customers, people on whom it’s dependent, all of whom have some stake in the enterprise and all of whom provide some inputs.

COTTERRELL: When was that, when he was writing? I don’t know his work at all, but roughly when would that be?

SELZNICK: In the thirties.

COTTERRELL: Okay.
SELZNICK: He was a very interesting fellow. When I knew him (briefly I knew him), he was the president of the New Jersey Bell Telephone Company. But he was also very much of a theorist, an intellectual. So he was running up to Harvard [University], giving some kind of a seminar on organizations, and that’s when The Functions of the Executive came out. If you try to read that book, it’s a highly abstract book, very difficult to read, but he had all of these ideas there.

COTTERRELL: Right. So you read that at a pretty early stage?

SELZNICK: Oh, yes. I read it when I was a student at Columbia [University]. Somebody encouraged me to go visit him, which I did. He was in Newark [New Jersey], I think. You know, that suggests that I’ve had a misunderstanding all along. I have always told myself that after I graduated from high school in Newark in 1935, I never went back. But, you know, come to think of it, that may not be true. I think I went to go see Chester Barnard.

I was so impressed. I was just a kid, you know. I went into this big office, and this guy, this chief executive of this big corporation, he’s sitting there with a clean desk and able to relax and take time to talk to this young student from Columbia.

COTTERRELL: Really impressive.

SELZNICK: Yes, yes, that was very impressive. For me it was, anyway. I didn’t know anything about things like that.

COTTERRELL: That suggests if you took all those ideas from him at that early stage, then they were sort of simmering; they were there in the background and ready to use later.

SELZNICK: I think they were. This whole sociology of organizations certainly didn’t pop out. It had to do with the-- Do you know the book, Management and the Worker [published by Harvard University Press in 1939]? It’s probably not well known anymore. But this was a couple of guys, also at Harvard - [F. J.] Roethlisberger and [W. J.] Dickson - and they did these very, very important, careful sociological studies of workers’ responses to changes in their environment. I guess their basic finding was that workers did better and had better morale if they thought people were concerned about them, and so it didn’t make that much difference exactly what changes were instituted, so long as you were expressing concern in trying to do something.

There were other things. And what was interesting about that book, too-- I mean, it’s many years now since I’ve looked at it, but they had some theoretical background in the work of Pareto, so it was not divorced from social theory. It had ideas like that in there. Probably no longer anybody looks at it, but it was a quite interesting study. So anyway that was important in the early days.

Just as an interesting sidelight, there was somebody who wrote a book about trade unions. Oh, I know: a fellow named [Clinton S.] Golden, and [Harold J.] Rutenberg. They were both trade-union officials, maybe for the steelworkers union - I can’t remember. And they wrote this book [Dynamics of Industrial Democracy, published by Harper and Row in 1942] in which they used the findings of Roethlisberger and Dickson to show a sociological warrant, you might say, for the work of trade unions in representing the interests of the workers. That was really interesting.
But Barnard approached these things on a very abstract level. He had a lot of interesting ideas. He was a very thoughtful guy. I used some of that. I referred to Barnard, at some length, I think, in the last part of my TVA study.

COTTERRELL: Yes.

SELZNICK: Because he wrote something - it wasn’t in the same book - about what did he call them? Dilemmas of decision, or something of that kind. He talked about certain connections, like between consent and conformance. I forget. I’m a little hazy about it now. But it was really quite interesting, and you could see how these things worked out.

But perhaps most of all, getting back to the idea of community, was that he was very much interested in the ways in which people who come into an organization with all these parochial or special interests become integrated into the whole. It may even be Barnard who talked about the idea of “composite decision,” that you can’t really talk easily about a decision coming down from the top, but the decisions are composite because so many people have participated in them and they are worked out through consultation and so on.

And he had this rather relaxed approach to management.

One thing I’ve never actually learned— in Leadership in Administration, I made something of the experience of a company that was in the business of making motor boats. It was a well known company. I happened to know a person who had been an executive of that company, and he gave me some information about this. One of the stories he told me had to do with the fact of how difficult it was for that company to use the same factory and the same workers for producing a lower-quality product.

It had become interested in a more mass-market product. The lesson was that you get these commitments and ways of doing things, and it was very difficult for them to change, so they had to start all over again in a new place, with new employees in the company, in order to do this other thing.

Now, Barnard gave some lectures which I cited - I think I cited them in The Moral Commonwealth — in which he referred to this company that had this problem. These were lectures he was giving on craftsmanship, which I happened to run across later on. This was many years after The Functions of the Executive. I had to say in a footnote— I mentioned what Barnard said, and I said, “I hope it’s not the exact same case!” [Laughter.] I mean, maybe it was, for all know.

Maybe he had a different case, but he didn’t say who it was, but it sounded to me very much like the same case that he had, from other experience. He was a very remarkable, unusual person to be in the business world.

COTTERRELL: It also occurs to me that—just going back to the Berkeley University experiences in the sixties, these ideas were also being-- as we’ve said before, in a way-- were also being played out in practice with the University as an organization, in a sense, with an aim to provide education, to teach students, but also an institution with stakeholders and commitments and so on. And then, in your reply to Glazer, you talk specifically about community.

SELZNICK: Right.
COTTERRELL: You used that term.

SELZNICK: Did I? I can’t remember.

COTTERRELL: Yes. Again, it’s this sort of movement, isn’t it: organization to institution to community?

SELZNICK: Right, because I was-- See, the issues that were raised by that controversy had to do with the meaning of belonging to the university community for the students. Why shouldn’t they be talking about these things? This is their home! This wasn’t just a place they were coming to from the outside to attend classes and so on; they lived here; they worked here; they made love; they did all kinds of stuff. It was important to do that. So I think I was aware of that side of things.

But I think this communitarian perspective is certainly a change. I wouldn’t say it wasn’t. You might even call it a communitarian turn. I gave a lecture recently at the Wharton School [of Finance], in which I outlined-- It was partly a memoir, and I talked about the institutional turn, just to give them some catch phrases, really: the institutional turn and the communitarian turn. I used those phrases.

So I’m not saying there wasn’t this kind of change and development, but to me, the continuities are very strong. Maybe as an interlocutor you might want to dismiss the natural tendency of people to find cohesion in their lives, but there’s something like that.

COTTERRELL: The other thing I wanted to pick up is the relationship with liberalism, because you talk about “communitarian liberalism” and so on. Am I right in saying that with your writing on communitarianism, that you actually state a very clear position on liberalism, as such, and it’s a kind of powerful support for essential elements in liberalism but a critical view as well? And communitarianism gives you a means of taking your distance in a way.

SELZNICK: I think that’s fair. Again, I don’t think that this is really different from what sociologists were implicitly saying for a couple of generations. People like Herbert Blumer-- he didn’t have all this clearly in mind and maybe wouldn’t use words like “liberalism,” but he would thunder away to his introductory students about the importance of interdependence and social interaction and communication and all of this stuff, as a moral thing as well as being able to see the world clearly. This is what the world is like.

And I think in my textbook, at some point, I remember saying something about the critique of atomism - this was long before any of this stuff was talked about - that the sociological approach resists the idea of the isolated, self-sufficient human being. But you’re right. I have emphasized this idea of communitarian liberalism. I wanted to be sure, as I said in the preface to this book [The Communitarian Persuasion]-- I said I was keen to show that the communitarian perspective belonged to the progressive experience in American thought and practice, and not to something else.

Now, there is another side to it that people could focus on, but I wanted to emphasize the importance of the hybrid.

COTTERRELL: As a way of making a clear distance from the conservative side of communitarian?
SELZNICK: Yes. The tricky problem comes up when you’re comparing communitarian with what you might call “welfare liberalism.”

COTTERRELL: Yes.

SELZNICK: Because welfare liberalism already has a lot of communitarian strands in it.

COTTERRELL: Yes.

SELZNICK: And so why not just say that? Well, I think the reason is that many people who associate themselves with welfare liberalism are still too hung up on doctrines of autonomy and untrammeled freedom and things of that kind that are inconsistent with the communitarian view. As I’ve said someplace, it used to be taken for granted that when we were talking about liberty, we really meant ordered liberty, and that was a phrase that was sometimes used: “ordered liberty.” But that’s not a phrase that people use nowadays.

COTTERRELL: No.

SELZNICK: Right?

COTTERRELL: Just “liberty.”

SELZNICK: Just “liberty.” And so the communitarian liberalism is a critique of certain excesses in liberalism that extend to the ideas of even welfare liberals, notoriously [Ronald] Dworkin. Dworkin has, I think, many communitarian strands in his thought [that] he wouldn’t admit to, but he still wants to hold fast to certain ideas and even tries to define liberalism as a system of thought which calls for the community to be neutral with respect to conceptions of the good.

COTTERRELL: Yes, right. And also [for Dworkin], as a legal theorist, as a legal philosopher who sees law in the lawyer’s sense of a certain set of nation-state legal institutions, the community ends up as being the political community of the state.

SELZNICK: Yes.

COTTERRELL: Which is ultimately very different from your view, isn’t it? I mean, community as a unity of unities and all this sort of thing.

SELZNICK: Well, I think the unity of unities idea would allow us to say, well, certainly for some purposes it’s important to maintain more limited communities, but we are certainly always open to the possibilities of more comprehensive unities being what really counts.

But when Dworkin criticized [H. L. A.] Hart’s positivism in his earliest writings and was expressing this more distinctively American view of the law and so on, was focusing on the idea of principles versus rules, it seems to me he was moving in a communitarian direction because he was saying: how can we understand what lies behind the rules that we have as the set of more basic beliefs and institutions that hold the legal order together and that constitute a much more complex rule of recognition than Hart seemed to be suggesting?
And so he was saying, well, it’s really the community in some sense that speaks and offers this authority that lies behind the rule. But, as you say, I don’t think he’s thought it through. He’s so smart, you know, you would think he would have thought through everything.

COTTERRELL: Yes, but in the end, his project is completely different from yours, isn’t it? I mean, an interpretive community is very important to Dworkin as the way of developing the law and as the way of bringing out the law’s meaning, generation by generation and so on. But you’re a sociologist ultimately, so community is a way of making sense of the different kinds of social bonds and allegiances and differentiations and so on. The project is not the same, is it? I mean, there are convergences.

SELZNICK: I think there are convergences. I’m not always sure I always understand what’s meant by “interpretive community,” but it seems to me that part of the process of community formation is a process of interpretation, depending a little bit on what we mean by that. But if we give meaning and we interpret the significance of certain events, we say: here we had a founding; here we had a powerful symbolic utterance, the Gettysburg Address by [President Abraham] Lincoln; here is our interpretation of the Civil War and what that meant for the formation of the American community.

It requires interpretation, if by interpretation we mean generating meanings and the transformation of [meanings].

[End Tape 11B. Begin Tape 12A.]

SELZNICK: The nature of the community has been reinterpreted. It’s been reinterpreted to make African-Americans and women full citizens, at least in terms of aspiration. So I wouldn’t separate those two projects. But I admit that I’m not sure that I always understand what people mean by talking about interpretive community.

COTTERRELL: I haven’t read, by any means, all you’ve written about community, but from what I have read, you seem to be very concerned to emphasize both unity and differentiation--

SELZNICK: Yes.

COTTERRELL: --and the fact that community can exist at many different levels and many different places, and whatever those levels and places are, they’re all valuable. They all serve the richness of life, and they all go beyond the sort of atomistic liberal thing.

SELZNICK: Right.

COTTERRELL: In a way, I think that’s an incredible strength, because I don’t see that in Dworkin; I just see his interest as being the interpretive community of the legal system, and that’s it, really. But one thing I’m not clear about: can you really hold to a strong, clear view of what a community is, if you’re very concerned to recognize this great variety of forms of community life? We all know that “community” is a very vague word in lots of its usages, and the reason why a lot of social scientists reject it ultimately, as a concept, is because it can be so vague and slippery, and it can apply in so many contexts.

SELZNICK: That’s true. But, I don’t know, “social relation” is a very vague concept. “Society” is a very vague concept. It applies to all kinds of settings. I agree with you, but there has to be a strategy in
dealing with that. We’re talking about something that is, indeed, quite general. My strategy for handling that is to focus on variation and to say, well, a group, whatever kind you want to talk about, is a community insofar as-- and then I list a few criteria. And it seems to me that has the great value of pinning it down. These criteria are found; you usually know where these criteria are. You can look at a military unit and ask yourself in what ways and to what extent does this criterion apply? You can look at a department of sociology or a law school and ask about these things. You can look at a city like Berkeley and ask these questions.

And so the generality exists, of course, but I think that’s true in a lot that we have to deal with. Religious experience is a very general idea, and you’d have to locate it more sharply, and also then see how it varies in this way. I think that it may be true that social scientists reject the idea, but I think this is somewhat mindless. I think they should understand the degree to which they, themselves, are committed to using it, or some substitute for it. In the common sense, they use it all the time, of course. We know what we mean when we’re talking about the university community. It’s not that vague and elusive. We may have to spell it out a bit, but we know what that means.

COTTERRELL: You do have to spell it out, don’t you, as with the free speech movement controversy? For some people, the university community was the administration and the faculty--

SELZNICK: Everybody immediately would have accepted that.

COTTERRELL: --and not the students.

SELZNICK: Even then, even then, I don’t think you could have flat-footedly put that to people and they would say, “That was the university community.” They wouldn’t say that. No, because on the basis of their own common experience, they would realize no, they have to in some way include students. But they would say, “Well, this is the kind of community in which students have to take a back seat.”

COTTERRELL: Yes.

SELZNICK: Now, if you ask them, “In what sense are they [the students] members of the community?” well, they’re members of the community the way lower classes are members of some other community. And you can still, if you explore it-- You would still say, well, they’re members in some sense, because some obligations are owed to them and so on, even though they are subordinate, even though they hold these special duties of deference. There are mutual obligations entailed as well.

COTTERRELL: That brings in the element of power very importantly.

SELZNICK: Yes, right. Right. So I don’t have a lot of trouble with that.

I think, by the way, getting back to the history of all of this, that you would find, if you looked at [Robert] MacIver’s treatment of community-- I’ll bet we would find that there’s a lot of commonality with what I’m saying and what he said. He was trying to simply articulate a sociological view. I don’t think he quite got the point about variability. I don’t think he quite said it right. He said communities are settings in which people live their whole lives - in somewhat better language, too. And that is true. But it’s variable, the more so. The more people live their whole lives within a particular framework, the more likely you’ll want to speak of that as a community and that it will have the attributes of a community.
I use the example in my book [The Communitarian Persuasion] about the scientific community and the kind of thing that [Thomas] Kuhn was drawing attention to in talking about scientific community. Why did he talk about scientific community? Again, I think he was talking about the fact that people shared what he called a disciplinary matrix, a set of assumptions, that they had similar outlooks and things they took for granted about what was true and was not true and what was a good way to look at things, what was not.

They also engaged in certain practices, such as the transmission of a tradition, which all helped to create a scientific community, and this scientific community is able to have a positive effect on investigation. Now, it has some negative effects, too, which are often not discussed, like creating disciplinary pride, which gets in the way of thinking.

I’m rattling on here. I’m rattling.

COTTERRELL: No. Okay. In a way, you’re a member of the communitarian movement. I think you’re happy to think of yourself as part of the communitarian movement.

SELZNICK: Yes.

COTTERRELL: That seems to me a very new thing, in a way, in your career, because you don’t seem to me to be a joiner, in a way. You’ve gone your own way very much intellectually. Is there a sense, a bit of a feeling of sort of coming home, finding - not in the whole of your intellectual life, but a certain part of your intellectual life - a sort of feeling of rootedness?

SELZNICK: Somewhat, although I don’t think it’s right to say that I’ve not been a joiner. I’ve had strong feelings of identification and sometimes of participation, even in the years since I left the radical movement. I didn’t completely turn my back on identification with social movements and politics by any means. I became strongly committed to, somewhat partisan, even, with respect to President [Harry S.] Truman and his views. I didn’t agree with him about the atom bomb, but I mean--

COTTERRELL: Yes. I certainly didn’t mean you haven’t had strong allegiances, but as a sociologist, you went your own way.

SELZNICK: Oh. Yes. Well, it’s true. You’re right in this way also: that what I came to see in connection with this communitarian turn was that there’s always been an implicit public philosophy in sociology, that communitarianism - the new communitarianism that I’m talking about - can be significantly understood as articulating the public philosophy of sociology. Now, it goes beyond that because it takes up issues that sociology wasn’t particularly concerned with, such as free speech and similar matters, but the basic ideas about the structure of society, about the importance of integration, of overcoming divisions, of authentic communication, of socialization for autonomous judgment, of the interplay of freedom and discipline, and many other things, I think, are part of what sociology really has been about.

I guess this could be argued, there could be controversy about this because many sociologists don’t like to think this way, but I think there is an underlying public philosophy. There is a tendency for sociologists to be meliorists rather than revolutionaries.

COTTERRELL: Yes.
SELZNICK: An effort to try to bring together, to treat all of the components of society as authentic and valued participants in the larger whole, and therefore not to waste the resources of human capital and so on in a society; the importance of what’s lately been called “social capital” as a background thing. [And] I think what I said in this book [The Comunitarian Persuasion] - you probably didn’t get to read that - about institutionalization and obligation-- At one point, I was talking about enterprise responsibility, and I said you could rephrase [Robert] Michel’s famous slogan, “Who says organization says oligarchy” into “Who says organization says obligation.”

COTTERRELL: Yes.

SELZNICK: That’s a more general but, I think, more profound sociological conclusion about organizations. So sociology and communitarianism fit together very neatly. I mean, it may not be complete, but together they represent very important strands of public philosophy, and together they represent strands that I think have to be called communitarian liberalism. They’re certainly not classical liberalism and probably not just welfare liberalism, because there’s too much concern for the human person. Manipulating that person and making him a subject of social engineering and so on is a little bit [voice trails off]--

COTTERRELL: This must be really your way of seeing both sociology as a home intellectually and communitarianism as a home, because obviously communitarianism is a place of philosophers as well, who have no sociological background at all.

SELZNICK: I know. They’re rediscovering sociology, some of them.

COTTERRELL: Right. Yes, yes. But it’s pretty hard to say that sociology’s destiny, in a way, is communitarianism. I mean, it’s a particular perspective. And your very distinct perspective as a sociologist plainly does find a ready home in communitarianism.

SELZNICK: That may be. But I’m not so sure it’s such a distinctive perspective. Take work on crime, delinquency, and things like that. I think the main motifs of the sociological analysts have focused on the importance of reconciliation, reunification, of postulating the humanity of the criminal, of trying to provide constructive rehabilitative ways of dealing with undesirable deviance, of appreciating that deviance may also be healthy for the society in some ways, of resisting absolute conformity while accepting the need for strategies of reintegration, of recognizing that people who commit crimes are like the rest of us, and their circumstances are different. That’s all part of main sociological analysis.

COTTERRELL: Yes.

SELZNICK: And so these are communitarian views.

COTTERRELL: Okay. First of January 1984, you retired from the chair of Law and Sociology.

SELZNICK: Yes.

COTTERRELL: Was this a big upheaval in your life, as such?

SELZNICK: No, no, I was glad to do it. I was looking forward to a time of freedom to write this book [The Moral Commonwealth].
COTTERRELL: Right.

SELZNICK: So, no, it wasn’t a time of big upheaval.

COTTERRELL: So that was the project. I mean, as soon as you retired?

SELZNICK: Yes, I immediately was working on that. Serious things were happening. I got together with Doris [Fine] and also my sister died in 1983.

COTTERRELL: And you married Doris in December 1982.

SELZNICK: Yes. And my mother died in 1983. I mean, there were serious personal problems during that time, but I did rather quickly begin working on that book. I think I did a prospectus maybe 1981, because I remember talking it over with my sister. You know who she was? She was May Brodbeck, who was a philosopher of science person. So I had done that. And then, you know, for the next half a dozen years, that’s what I was doing.

COTTERRELL: Yes. So you were quite happy to sort of leave JSP behind?

SELZNICK: Yes. I was comfortable with it, anyway.

COTTERRELL: It was well under way.

SELZNICK: They could do without me, yes.

COTTERRELL: In good hands, and so on.

SELZNICK: I didn’t feel I was abandoning ship, although maybe I was. I mean, I do feel that JSP might have been a little bit better off if it had some greater continuity of leadership, but I think they’ve done very well. And being the kind of person I am, I’m not sure it would have made much difference. I’ve never been able to throw my weight around or comfortable with that, or feeling, well, we have to recruit people who think the way I do. So it still would have been a somewhat miscellaneous assortment of very good people.

COTTERRELL: You mean “greater continuity” because I suppose you weren’t actually there very long, were you? I mean, when it was set up, you were in the throes of a big crisis.

SELZNICK: Right. I was there, and I was active for some years because I was involved in the early discussions of recruiting people and things like that, but gradually, by 1984, after that, I think I was no longer that active.

COTTERRELL: Since that time, you’ve done a lot of traveling, I think.

SELZNICK: Right.

COTTERRELL: I’ve got a few things: you were Doctor of Jurisprudence, honoris causa, at Utrecht, in 1986.
SELZNICK:  Nineteen eighty-six, right.

COTTERRELL: Just a couple of years after. And then you were a fellow at the Woodrow Wilson International Center for Scholars in Washington [D.C.]. That’s a bit later, 1993 to ‘4.

SELZNICK: Yes, that was after The Moral Commonwealth came out. That came out in 1992. I finished working on it in 1991, and as soon as I finished and handed over the manuscript to the press, Doris and I went to Paris, so we stayed in Paris, and I wrote the preface in Paris, and I also received proofs and things in Paris and did the index there, so I did work on it in Paris. But it appeared-- it was published in some point in 1992, although they didn’t do a paperback edition until two years later, 1994. So yes.

And then, when we came back here, it occurred to me that it might be nice to do something different, and somebody suggested something about the Woodrow Wilson Center, so I applied to go there, and that worked out.

COTTERRELL: What were you doing there?

SELZNICK: What I was supposed to be doing, what I did to some extent, was work on the Department of Education in the [President William J. “Bill”] Clinton administration. I did quite a bit of work on that and interviewed people and so on.

COTTERRELL: What sort of work? I don’t quite follow what sort of work.

SELZNICK: I wanted to know-- Well, there were big issues raised about what the potential-- If you assumed that education was going to become more and more of a national concern, what would be the role of the Department of Education, what could it do and so on. I had some thoughts about that. I got distracted by other things during that period, so I really didn’t-- and also at some point-- it was early in the Clinton administration, I didn’t really want to come out with some sort of a blast at what the Department was doing. I didn’t like it, but I didn’t really want to do that, so I kind of backed away from it a little bit.

COTTERRELL: Doing that, that seems like a new thing. It’s not sort of prefigured in-- I mean, you hadn’t sort of been involved in research on education.

SELZNICK: Yes, but I’d done research on administration. We’re talking about a branch of the Department of Education, it’s true. I mean, I hadn’t really been involved in education, although I had thought a lot about it and talked a lot about it to Doris, and I had some thoughts. As a matter of fact, in my book I mention something about what would be a proper role for the Department of Education. That’s to some extent based on what I was doing there.

But anyway, I was a fellow at the Center, it was just a comfortable place, an interesting place to be. I liked being in Washington. It was very nice. Various things came up, little bits of things I had to do and talks I had to give, and that sort of killed a lot of my time.

COTTERRELL: Right. And then you went to Japan. You had a fellowship for research in Japan with the Japan Society for the Promotion of Science. That was [July] 1995.
SELZNICK: That was in connection with the meeting we [you and I] were both at [International Sociological Association Research Committee on Sociology of Law, Tokyo].

COTTERRELL: Oh, yes, that’s right.

SELZNICK: I went to that meeting, but there was arranged for me some money to support staying in Japan for a month, and that involved going to a couple of other places, like Hokkaido, where I also participated and gave kind of a talk there and so on.

COTTERRELL: Was that the first time you’d been back to Japan since the end of the war?

SELZNICK: No. No, I was there-- I can’t remember when, but sometime in the eighties. Yes, we had gone back to Japan. There was a wonderful little group, some local couple, who were organizing tours to Japan - this must have been around 1986 or something like that - that we got to know about. And they organized this wonderful visit to Japan. [We] mostly stayed at Buddhist monasteries and ate there and participated a little bit, like getting up early in the morning and sitting Za-Zen. I couldn’t do that very well, but Doris liked it. And that was kind of interesting. That was the focus of it.

We went to quite a few places in Japan, often to fairly remote places. But I think as part of that trip - I think it was part of that trip - I paid a kind of a formal visit to the University of Tokyo and gave a talk there. It’s a little hazy in my mind. I think it might have been a different trip. But anyway, I spent a little time in-- sometime in ‘86. Maybe once or twice I had gotten to Japan earlier, partly as a tourist, partly giving a talk at the University of Tokyo, where my former student, [Kahei] Rokumoto, was a professor.

Also visiting Kyoto, where I renewed my friendship with somebody I had known in Japan when I was there as a soldier right after the war.

COTTERRELL: Really? Yes. Oh, yes, this guy you told me about.

SELZNICK: I told you about him?

COTTERRELL: Yes.

SELZNICK: Yes, Tsurimi Shunsuke. He was twenty-two, twenty-three years old when I knew him. He had been a student of philosophy at Harvard, and he was shipped back home to Japan. I think he was in the military for a little while. I got to know him because his father was a member the Japanese diet, a conservative politician.

COTTERRELL: This was when you were there the first time.

SELZNICK: Yes, right. I got to know his family through his father. His sister was also a very interesting person. I think I mentioned she later became a quite prominent sociologist in Japan. And Shunsuke became an editor and journalist, a very popular philosopher, a very well known person, also in Japan.

And there he was, and we arrived at this-- now, that was when we were on the tour because I know we were at that ryokan [traditional inn] in Kyoto, and I had told Shunsuke that I would be there, and sure enough, he showed up. He was waiting there and looked the same. I mean, many years later. So we had
a very enjoyable reunion at that time. He remembered some of my characteristic phrases that I used when I was young, and things like that.

COTTERRELL: You told me before—You said when you first went to Japan and worked for [Douglas] MacArthur after the war that it made you feel very American.

SELZNICK: I think it was being in the Army that made me feel very American. Not so much being in Japan.

COTTERRELL: Oh, I see. I misunderstood. Right, right.

SELZNICK: I think being in the Army. Being in Japan was more a matter of not so much thinking about myself but about the great appreciation I had for the Japanese people, the Japanese culture and things like that, an enormous commitment to aesthetic appreciation and, of course, a very disciplined society. I certainly understood the demonic elements in that society, but this part was very nice.

COTTERRELL: And, of course, years before, you’d emphasized the aesthetic expression of culture as a very important part of it, in the paper you wrote with Gertrude.

SELZNICK: No, that’s years later. Oh, I see, [you mean] years before I went back? Yes, right.

COTTERRELL: I mean, these things are interesting in a broader sense as all feeding into an appreciation of difference.

SELZNICK: I think that’s true.

COTTERRELL: An appreciation of culture.

SELZNICK: I think this idea of a strain toward the aesthetic that we discussed in that paper was something I really began to appreciate largely going way back to the days when I was working on anthropology, the culture and personality school in anthropology. I was impressed by why it was that Franz Boas was interested in the art of primitive man and some of the other-- and what they were trying to say and so on.

There certainly have been stages in my life where there’s been a close connection between what I was experiencing in the world, including my experience as a soldier in the military in the Philippines and Japan, and my social science thinking.

[End of Tape 12A. Begin Tape 12B]

COTTERRELL: Just going back to this point, when you were in the Army, what about that made you feel more American than you felt before?

SELZNICK: I’m not sure. I think it may not have been only the Army. At that same time it was when I was kind of rethinking my political theory and my self-understanding and finding myself much more appreciative of the American constitutional system and so on. But I don’t think it was only that; I think there was a kind of visceral identification with other soldiers, a kind of sense that we were in this together and what we were, we represented America in this struggle. You couldn’t always be happy about that
because certainly when I heard about the dropping of the atom bomb, I was revolted. I never have believed that that was a necessary outcome in that.

COTTERRELL: Of course, you’d been opposed to war, hadn’t you, before that?

SELZNICK: I had, but I think that my opposition to war was more abstract and that when it came right down to it, in some sense I was not opposing the war, and certainly didn’t have that strong opposition that would lead me to be a conscientious objector and claim that. But the idea of dropping a bomb that would have these devastating effects on so many people seemed to me unjustifiable. There was no way you could justify it. And they tried to justify it by saying, well, we saved a lot of American lives. They kept saying that the alternative was that we would have to invade Japan. I don’t believe that. I mean, Japan was in such bad straits that an effective blockade of Japan would have brought it to its knees in six months, I think. But what if it took a year? I mean, it wasn’t really necessary to invade the islands. I don’t think so. I think there would have been a surrender without that. There was potential for surrender even as early as the Potsdam meetings. They were negotiating this whole question of whether they would keep the emperor or not. I’ve never accepted that and, even if I had, I would say they shouldn’t do it.

COTTERRELL: Is this a view that you have carried forward ever since about nuclear arms and nuclear war?

SELZNICK: Yes, I suppose so. Even more, I’m revolted by all this talk about collateral damage, the idea that you can be indifferent. What happened in the Vietnam War, too. I mean, all these people were maimed and killed by these horrible weapons because somebody had an idea in his head.

But nevertheless, taking the situation as a whole, I felt these were my fellow Americans. I had that feeling about it.

COTTERRELL: Yes. Going back to community and communitarianism, I suppose violence and war is the very antithesis of community.

SELZNICK: Well, there are certainly a lot of communities that have engaged in violence. It is the antithesis of the ideal of community.

COTTERRELL: As you see it, yes.

SELZNICK: Yes. I’ve tried hard to say that we have to take account of the dark side of community as well, and the dark side of community is identity politics and the horrors that are committed in the name of God and country and things like that.

COTTERRELL: And this is why the balance of civility and piety I guess is so important, holding these--

SELZNICK: Yes.

COTTERRELL: There’s a sort of tension, I think, in all your work, this idea of [a] tension of things which have to be held in balance somehow.

SELZNICK: Right. I think I became aware of that more in writing The Moral Commonwealth. There’s an interesting transition that took place there, I think. I began with writing about naturalism and ethics
and the pragmatist perspective and things like that-- but I ended-- but that was more a focus on knowing, on cognition, knowing the good. But as I came toward the end of the book and was writing about this idea of covenant and commonwealth as the last chapter, I began to see much more clearly that one couldn’t only talk about knowing; you had to have resolve and commitment, and that there is a difference between knowing and doing, knowing the moral truth and really internalizing the moral truth.

It seemed to me piety was very important for the latter. Of course, here again, we do that in many contexts. We try to get people to understand what is important for good science or whatever, but we don’t rely on simply knowing that, we socialize people so that they won’t have self-respect if they do the wrong thing. That’s why I felt you had to open the door to concepts of piety, which involve this kind of commitment. I’ve tried, as you say, to have this balance. I don’t know if I always understood this, but I came to understand it.

What is important about my thinking is that an openness to theological ideas is not new.

COTTERRELL: Right.

SELZNICK: I mean, this is really something that I had in the forties. Even my sympathy to Christianity is not new.

COTTERRELL: Yes, because you read Niebuhr, didn’t you, really early on?

SELZNICK: I read Niebuhr when I was very young, yes.

COTTERRELL: Yes.

SELZNICK: But I wrote something in which I explicitly talked about the importance of Christianity, back in the forties. That didn’t mean that I had become a believer or anything like that or was ready-- If someone asks me what is my religion, I know what answer they want. They don’t want to know about my beliefs; they want to know about my identity and what my origins are. So I’m aware of that.

But what I’m saying is that probably being sensitive to those things early on made it a lot easier for me many years later to think the way I did about problems of piety and religion and so on. I don’t think I’ve changed my basic views, which are more naturalist in scope; I’m trying to broaden naturalism to include a deeper appreciation of what religious experience is and see it as part of the continuities of human experience. I don’t think reverence is just something somebody thought up that has no roots in what human beings need and what is good for their lives and so on.

So I see that kind of continuity, but there are also these changes. One of the reasons I feel it’s important for us to continue working as long as we can is that we do learn new things. I expect to repeat, in this next project-- I’m sure it’ll be my last-- If I get it done, I’ll repeat a lot of things that I’ve said in the past, of course, but I think there will be things that I’ll have learned that I didn’t know before. That’s very inspiring, very heartening.

COTTERRELL: Yes. You finished the last chapter of your new book that isn’t yet published [The Communitarian Persuasion] with-- The last chapter is on theology, religion and community.


SELZNICK: Which is the title that Dewey used for his lecture, a little book he put out, called *A Common Faith*. I mention that.

COTTERRELL: Right. Is this becoming more important to you, really, to make this connection with religion? I know that theology has always been there, pretty well.

SELZNICK: I don’t know that it’s more important. I think the current situation in the world makes *religion* more important, maybe, than ever, in the sense of how do we deal with religious extremism.

COTTERRELL: Ah, right. So it’s partly to understand religion as a problem.

SELZNICK: Partly, it certainly is a problem.

COTTERRELL: Yes.

SELZNICK: It’s partly a problem and partly a beacon, an affirmation. As I say in the chapter, it’s an affirmation of the principle of community. I don’t know what people will think of this, but I came up with this formulation of “the principle of community” as the union of solidarity and respect.

COTTERRELL: Yes. Yes.

SELZNICK: Well, some people will like it, I think. I think it captures something.

COTTERRELL: It’s interesting, because you say in that text-- You claim that most of what you’re setting out in *The Communitarian Persuasion* is what communitarians think, of a certain stamp.

SELZNICK: Yes.

COTTERRELL: But in the last chapter, you say, well, maybe I’m going beyond what they think. [laughs.]

SELZNICK: Yes, I do. I’m not sure what--

COTTERRELL: Yes. So it was important to add that in, for you.

SELZNICK: Well, yes, I think it was, because it seems to be one of the things I learned, that we have to understand deeply what values are and what they commit us to. That does involve problems of faith. Why do we believe in the moral equality of human beings? If you try to answer that abstractly, intellectually, you’re going to stumble. You might have an answer, but that’s *not really* what’s going on. What matters is that, for various reasons and as a result of various historical experiences, we have embraced this as a basic value. We don’t understand it very well but we have certainly embraced it.

COTTERRELL: I’m very much reminded of Durkheim, obviously, because Durkheim, as we know, wasn’t a believer, and yet for him religion became very, very important in sociology and so on, and he also came at this from a Jewish background, having rejected Judaism. I wondered, in the end, how important your Jewish background has been.
SELZNICK: It’s hard to say. At one level, I think it’s not been important. I could say that at one level, it didn’t take. At one level, I rejected it because I have always been offended by the idea of a religion that represented an affirmation of a parochial identity and whose morality seemed to turn on the salvation of a particular people, as God’s chosen people, the people for whom God stretched out his hand and led them from the land of Egypt, the people who, in more contemporary, ordinary terms will say, “What’s important to us is what’s good for the Jews.” This seemed to be a very limited morality and one I couldn’t accept. So I have always been attracted to something that would have some kind of larger set of principles. To me, the idea that, properly understood, the law of love is really what’s at the heart of morality for human beings is what counts. And yet I could probably also say that there may be some connection of which I’m not aware between my Jewish background and the prophetic spirit that seems to be part of my life and my thought. I often wondered about that because it seemed to me so many of the young radicals that I knew were Jewish but not Jewish. I mean, they certainly were not Jewish, they didn’t like their Jewish names, and they took anglicized names if they could, as Party names. They didn’t believe any of the things you were supposed to believe. They didn’t follow the command[ments]. At least when they were young. Now, many of them later on sort of went back home, but at least the younger people--

And yet these were people who were driven by this prophetic sense and this dream of social justice, and the sense that it was right to be committed to this kind of an ideal and to try to put it into practice. I mean, they did terrible things in the name of that, but still that was their--

So how much of this is due to a Jewish background and how does it come about? I don’t know. I didn’t have a strong-- I had a very limited Jewish education. I had a stepfather. Well, you know about this story.

COTTERRELL: Yes.

SELZNICK: It wasn’t much of a family life, really. But still certain things that were thought to be respectable were done, like I did go for a few years to a Hebrew school, mainly, again, in preparation for a Bar Mitzvah, so I must have gone while I was eleven and twelve to school. You just did what you were told. You didn’t ask questions about that. It was however limited, very limited and very off-putting. It was not a very pleasant experience and certainly not uplifting.

COTTERRELL: You didn’t feel it left any real imprint on you?

SELZNICK: I didn’t feel that way. Whether subliminally something was left-- but I don’t see how it could have come from that experience because it was-- It’s probably like a lot of young Catholics who go to school, and they basically learn a little catechism and that’s all; they don’t really get a helluva lot out of it.

COTTERRELL: That’s right. Yes. You have to sort of work through to things, to a point where things become significant, don’t you?

SELZNICK: I think so.

COTTERRELL: They can’t be made significant for you.
SELZNICK: So, as I say, I did go through this ritual of Bar Mitzvah, but it didn’t mean anything to me; I was just doing the thing. And I quickly shed all that. Then, of course, I married somebody who was not Jewish.

COTTERRELL: Gertrude wasn’t? She wasn’t Jewish?

SELZNICK: No, she came from a Lutheran background, Lutheran family. And she was very similar to me in her attitude. She didn’t have much real interest in the religion of her childhood, even though she did things like play organ in the church and things like that. But she didn’t have any connection with that. I think we had very similar ideas. And when we were reading [Paul] Tillich and Niebuhr and people like that, we did it together. I think we had very similar attitudes about all of this.

So I don’t know what to say. I don’t want to deny that there may be some connection, because I see something of a prophetic spirit and something of the idea of saying, well, I want to clarify my vision; I want to-- Well, you could say I want to come closer to God; I want to understand who I am and what I’m about, and I want that to be sung forth to the people.

COTTERRELL: Georges Davy said that Durkheim-- I think it was Georges Davy-- said that for Durkheim it wasn’t enough to have students; he had to have disciples.

SELZNICK: Yes. I haven’t quite had that feeling.

COTTERRELL: [Chuckles.]

SELZNICK: No one’s opposed to having disciples; it’s nice to have disciples. But the one thing I think I learned was - and it probably reflects some kind of deep feeling - [that] I do respect other people’s autonomy. I am not really comfortable with the idea of interfering with people and making them over in my own image. It probably was not such a great idea-- I mean, when we were raising my daughter-- We probably were a little too permissive and so on, but it was hard for me not to say it is important, to be a good person, to be yourself and to find your own way, and things like that. I had that attitude toward students, too. I didn’t really want to--

COTTERRELL: Are you happy with the way that your ideas have been received? I mean, you’re a very celebrated sociologist. Not many years ago, there was a big symposium on legality here at the Center--

SELZNICK: That was only last year.

COTTERRELL: Two thousand. Yes, last year. That’s right. Do you feel that the message has gone across in a way, as you’ve wanted it to?

SELZNICK: I don’t know. I think it’s getting across. I was a little bit surprised when Bob Kagan told me they wanted to have this conference. I have not really had notions of myself as a celebrated person. I mean, there’s not been a lot of evidence of that. You know, I’ve gotten reasonable recognition and things like that. I have been comfortable with that. At that conference, I made the kind of closing remarks. I began by saying something like, “It would be a sour person, indeed, who did not feel his life was well spent after hearing these presentations.” Okay.
Then I said, “I have been moved and seduced and instructed.” I won’t go into the whole thing, but I said, “I’ve been seduced because I lived a lot of my life being proud of the fact that I have not been puffed up, and here you are” —[Laughter.]— “trying to ask me to be puffed up.” That doesn’t fit with my-- I’m not like that.

So I think I’m a fairly diffident person. There have been a few acts of recognition. I’ve been comfortable with that. I think I could have done more, should have done more to try to articulate the larger vision that I have, but, after all-- But I’m quite pleased with the main book that I did, *The Moral Commonwealth*. I don’t feel that needs to be rewritten.

**COTTERRELL:** It’s an incredibly rich book, yes.

**SELZNICK:** I’m happy with it. And that’s really the important thing to think about. I’ve gotten a reasonable amount of outside support.

**COTTERRELL:** Just finally, pretty well, really, you’ve been absolutely central to the establishment of sociology of law as a field - I don’t call it a discipline; I call it a field - in America and in the English-speaking world more generally. Are you pleased with the way things have turned out for law and society studies? Do you think there are any wrong turnings that have been taken or any better turnings that could be taken? It’s a big field, obviously, and very hard to generalize.

**SELZNICK:** Yes. It’s really hard to say. I’ve not been entirely pleased, because for a long time I felt that the mainstream work of law and society was too much influenced by a) positivism and b) by, later on, a certain amount of postmodern fragmentation and indulgence and lack of coherence, and maybe - most fundamentally - that the basic ideas that I have espoused have not been really prominent in all this. People have not really been interested in pursuing the larger project of how we could improve the legal order, but have gone sort of hit or miss at various issues, which is not saying something too much distinctive about law and society, but probably [is] true of social science generally.

**COTTERRELL:** Yes.

**SELZNICK:** But on the other hand, I think a lot of good people have been doing a lot of good things. We don’t have the kind of, I would say, strong intellectual leadership that’s needed. I’m not going to give it, but there ought to be a way of trying to create that leadership of people who would really, in a sustained way, come to think out what the law and society concerns are all about and try to be programmatic with that.

I think the piece on responsive law that Philippe [Nonet] and I did was, to some extent, a venture in that direction, to say, well, this is a first step at laying out an agenda; this is what we should be interested in. I’m not so puffed up as to suppose that any particular statement, and especially some statement of mine, would do the trick, but it seems to me there ought to be more ways in which the foundations of the field could be explored. Maybe that’s more of my prophetic sensibility coming up. I’m uncomfortable when we don’t pay attention to foundations.

**COTTERRELL:** Yes. Good. All right. I think we’ve covered--

**SELZNICK:** Okay.
COTTERRELL: Unless there’s anything you feel that we haven’t.

SELZNICK: No, I think we’ve said plenty here.

COTTERRELL: Okay. Thanks a lot for this.

SELZNICK: Well, I appreciate it very much.

[End of Tape 12. End of interview.]