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University of California
Berkeley, California

Ralph “Jake” Warner
Founder of Nolo Press

Interviews conducted by
Julie Stein
in 2009

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Interview #1: July 2, 2009

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01-00:00:00

Stein: My name is Julie Stein. I'm here in Berkeley, California to interview Jake Warner. Today is July 2, 2009 and this is our first interview. Let's start with you stating your full name and where and when you were born.

01-00:00:22

Warner: Great. Well, I should just start with the fact that my name's not really Jake Warner, it's Ralph Warner, although everybody I know well has called me Jake for the last thirty or thirty-five years. As to where I was born, I was born in the shadow of the Brooklyn Bridge. I was born in the Methodist Hospital in 1941 in Brooklyn Heights, which is just over the Brooklyn Bridge and a little to the right. Before I go a whole lot on that a little bit about my grandparents and my great-grandparents.

01-00:00:55

Stein: That would be great.

01-00:00:56

Warner: I think my family was just a quintessential American family. I'm part-Irish, part-Dutch, part-Scottish and part-English, and they came together from vastly different strains and kinds of people. The Irish folks were not potato famine people. They got off the boat, the Braniffs and the Carrolls in 1810, were in the rough, tough businesses in New York. Construction, livery stables. They kind of fought their way to the top. At one point in 1837, my great-great-grandfather—

01-00:01:31

Stein: Which side is this on?

01-00:01:32

Warner: This is on my mother's mom's side. My maternal grandmother's side. So she was half Braniff and half Carroll. But back to the Braniffs and the Carrolls who got off the boat from Ireland. By 1837, so the family story goes, and I think this was the Carrolls, owned a construction company in New York City, but when the city went bust after Andrew Jackson pulled the charter of the Second National Bank and the U.S. entered a deep depression, Martin Van Buren was President by then, the city went broke and had to pay the contractors in land. Commodore Vanderbilt, who was owed a lot of money at that time—the first real American plutocrat—he took his land at 42nd Street which became Grand Central Station, later headquarters of the New York Central Railroad. My great-great-great grandfather took his land on Staten Island, which didn't have its day until they built the Verrazano Bridge a hundred and some odd years later. So, yes, we owned part of New York City, but as it turned out, the wrong part.

Anyway, my grandmother grew up, more relevantly, in this big Irish family. She was born about 1877, 1878, the youngest of about twelve. Her oldest brother, who went on to fame as Brooklyn Jimmy Carroll, was twenty some years older. He fought John L. Sullivan several times for the heavyweight championship and was the number two ranked guy for years when that counted as something. Actually, I have some clippings of him coming out to the West Coast and articles in the *Chronicle* of him fighting the leading contender in San Francisco in front of a 100,000 people in the 1890s.

After they both retired, John L. Sullivan and Brooklyn Jimmy went into a partnership in a bar in New York City between 1900 and the First World War kind of thing. We have the partnership agreement someplace in the family. Everything owned by the two men, every single thing, was put into the partnership except John L. Sullivan's gold and diamond studded belt which hung over the bar. That belonged just to John L. in case the partnership went belly-up.

My grandmother was born in a big white house on Park Slope, which then, as now, was kind of a fancy part of Brooklyn. Lace curtain Irish for sure. Nobody in her family had any education but they had pretensions of genteel respectability and owned a big livery stable. My grandmother tells stories of the 1890s, when winters were a lot colder in New York than it is now, racing sleighs from Park Slope to Coney Island.

01-00:04:34

Stein:

Did you see the house? Is it still standing?

01-00:04:35

Warner:

No. I have never seen that house and I don't know if it's still there. As a kid, I knew another big house in Brooklyn that belonged to the other side of my family – The Warners, but it's located in what's now called Bed-Stuy. But back to my Irish grandmother. She was about twenty-seven years old and still unmarried in about 1905 which means she was in danger of being a spinster. Along comes this guy – my mother's father - whose family had, crossed the country in covered wagons in the 1850s. I think they had a little bit of money, and weren't dirt poor. His family, the Cottons, came from around Syracuse, New York, where they'd been farming. How long they'd been there I don't really know, but they talk about the early, early days. I'm not quite sure where they migrated to Central New York from.

My great-grandmother was born on the way across the plains in the late 1850s. They get to the Bay Area, right here near where we are talking today. My great-great-grandfather goes into the linseed oil business. Linseed oil was in all paint at that time. You couldn't have paint without linseed oil. His business was a huge success. He had a factory in the Mission District in San Francisco, another one a block from where Spenger's Restaurant is in Berkeley, which was the waterfront in those days. He had ships that took

linseed oil to Hawaii and China, and brought the flaxseed that makes up linseed oil from Idaho. Very quickly, a brother went on to Hawaii and became one of the seven owning families of Hawaii, so legend goes.

01-00:06:27

Stein: This is one of your great-grandfather's brothers?

01-00:06:28

Warner: Yes, right. The Cottons. So the Cottons established themselves as early San Francisco sort of aristocracy in terms of having money and position. They had this darling favorite daughter who was born in the covered wagon and grew up to a privileged life. I've never seen a picture of her as a young woman, but she was the belle of this family, who made the terrible mistake, in their eyes, of running off and eloping with a Dutch guy who was quite a bit older and who captured boats up and down the coast. He was the captain of some little ratty boat that went from San Francisco up to the lumber camps and back because there were obviously few roads in the rough country along the coast. So if you were cutting lumber in Mendocino or something, everything came by boat.

01-00:07:15

Stein: Was he transporting people or lumber or supplies?

01-00:07:17

Warner: All supplies. There were these little tiny general stores in the logging camps. I don't think he was transporting lumber. It was a little itinerant kind of coast steamer. But as far as The Cottons were concerned, this was no, no, no. So they disinherited her. They just put her out of their lives and she lived and had her kids, including my grandfather in about 1878. They lived on a farm, first in Oakland, and then later they moved up to Vallejo. Things probably would have gone fine. Momma's living on the farm with the kids, Poppa's driving the boat up and down the coast. They're doing fine separated from the rich family who despises him until my great-grandfather suddenly dies of cancer when my grandfather's eleven. So this would have been around 1890.

01-00:08:15

Stein: Were there other kids?

01-00:08:17

Warner: Yes. There are about three other kids. So instead of growing up in his mother's fancy family and going to the University of California and being cosseted, my grandfather grows up in two hops from starvation. Fortunately his grandfather – the rich guy - steps back in just enough to keep his daughter's family barely supported because there was no social safety net in those days. My grandfather actually gets jobs when he's a teenager in the linseed oil mill in Berkeley and takes the ferry across the Sacramento River and the Carquinez Strait. Then he caught the Santa Fe to Berkeley. There used to be two railroads running through Berkeley that actually crossed University

just west of Sacramento street. That was the station for the Santa Fe. He left school after high school.

01-00:09:09

Stein: Where did he go to high school?

01-00:09:11

Warner: He went to high school in Vallejo. Rode a horse to school. His big trip, his big excitement, especially as a fourteen year old was that kids would be allowed to take off for like a month. They would go in an old wagon, three or four boys with a horse pulling the wagon and they would just go up into the hills around Hillsburgh or Sonoma, which was just plenty of wild land. They'd just camp for a month and come back when they felt like it.

01-00:09:46

Stein: There was no problem with their parents?

01-00:09:47

Warner: Well, they didn't have cell phones, did they? So my grandfather gets out of high school. He's a totally enterprising guy, always was, and he gets a job for the original vacuum cleaner company. This is before the hand vacuum was invented, so this is a fascinating little vignette about America. The principle of the vacuum was actually owned by the Vanderbilt Trust, and they, in those days, only had vacuums in buildings, these big central plants like some of us remember from when we were in school. They had the thing in the wall that the custodian hooked it up to, the central vacuum plant, which I think some older hotels still have. Anyway, you'd build a new office building or hotel and this would be a very fancy thing. Remember, twenty years before, basically, buildings got filthy, and somebody cleaned it with a dust rag or a mop. So now you could buy these central vacuum systems, which my grandfather was the salesman for the West Coast territory. He spent a lot of time in Portland and Seattle. He was twenty-one or twenty-two, but he was selling these things and doing well. Well enough that I've seen pictures of this prosperous young man in his three piece suit and fashionable straw hat. In the summer of 1905, he decides to go to the Saint Louis World's Fair, which was just the cat's pajamas of modern stuff.

01-00:11:24

Stein: Was he going for business or just to enjoy it?

01-00:11:27

Warner: Partially for business in the sense that he was in the business of selling technology. But also partially because he was a totally curious guy, always wanted to learn, about every kind of machinery and stuff. Just kind of a tinkering genius, as it turned out, you'll hear. So anyway, he goes there and while he's there, he gets a telegram from the head of the company in New York saying, "the man who headed the New England and New York territory, which is the best territory for the company, has dropped dead at age forty of a heart attack. Would you like to take over that territory? Reply by return

telegram. If yes, you need to be here in forty-eight hours.” So he replies, “Yes,” gets on whatever train takes you from Saint Louis, gets to New York, and never comes back to California again until the 1950s. He never sees his mother again, never sees his brothers again.

01-00:12:17

Stein: How old was he when he moved?

01-00:12:19

Warner: About twenty-seven.

01-00:12:21

Stein: And what’s his name?

01-00:12:23

Warner: Frank Toors. He actually has a little footnote in history, as I’ll tell you. So he’s back in New York and remember, my grandmother is the spinster twenty-seven Irish girl in the big house with all the brothers including the famous fighter and other people who are, by this time, worried about her. “Are we going to have her on our hands our whole life?” She doesn’t have any particular skills because it’s a wealthy enough family.

So my grandfather gets back here, and almost as soon as he gets here, the Vanderbilt companies are merged into a conglomerate that turns out to be General Electric Turst. As part of this, the Vanderbilts sell G.E. a lot of the patents they have, including the vacuum cleaner patents. I think the Edison Companies were at the center of this attempt to control everything electric.

The old company, the Vanderbilt Companies in New York City, and maybe in Boston, had a little small division that, in addition to doing central vacuum plants, they kind of expanded out into cleaning mansions and upper middle class houses . All the captains of industry, the Fricks and had these places that went for a block, which were filthy. So they hooked these vacuum things up to a horse drawn truck that had a vacuum tank on the back. Imagine a fifty year old oil truck hooked to some horses on a big wagon. A great big thing, and it had all these pipes and hoses that were attached to it. The tank truck created the vacuum that sucked up the dirt. It wasn’t a central plant. So this truck would pull up and ten guys with these hoses and metal ends, would pull them through all the windows of the house. The rich people would be at Saratoga or something. The staff would be standing by, and for a week, they would vacuum every nook and cranny of a block long house. Of course, it would take shorter for just a regular prosperous person’s house. But this was just the thing to do there for I don’t know how many years. Before 1905 you could do this. But it was kind of like twice a year you would have the vacuum truck come.

01-00:15:04

Stein: It was all men who were doing the work on this?

01-00:15:06

Warner:

Totally. Oh, of course.

It was just such salesmanship. They were all dressed in these white overalls which just shouted clean. We're so clean. So my grandfather arrives in this world of selling the big vacuum units to office buildings, hotels, and resorts. New York, Boston, all of over New England and New York. Of course, it's not like it is now. Binghamton was a real city, as was Troy, as was Schenectady and Albany. There was a lot of business.

Simultaneously, or close to simultaneously, within a year or two, the Vanderbilts are selling out to General Electric and the hand vacuum is invented. So all the General Electric Trust wants are the patents which apply to the hand vacuum cleaner. This is the valuable part. In addition of course to all the Edison patents concerning phonographs, lighting and so on.

So where's my grandfather in all this? Well, he's a tinkerer and he's been reading technical magazines and one of them is about how somebody in Europe has invented sandblasting. How much before, I don't know. And this was cleaning buildings with sand.

01-00:16:34

Stein:

The outside -

01-00:16:35

Warner:

Yes. All buildings were stone then. They weren't glass. So you had these huge edifices. Like you'd go back to New York now and look at some of the old banks, the ones that are still surviving. Even some of the old hotels, the Roosevelt Hotel or something. Little windows and lots of stone. So the idea was to blast sand under very high pressure. They still do it to clean boats and swimming pools. And that would basically take off layers of grime and the building would look brand new. It all depended on having vacuum machines that would go blow out at incredible speed with these high pressure nozzles. Somebody invented a nozzle that would concentrate the sand in these incredibly powerful streams. Imagine a fire hose under a huge amount of pressure but sand.

My grandfather had read about sandblasting. So as the whole Vanderbilt vacuum empire was merging into General Electric, it suddenly occurred to him that if he reversed the belts on the tanks on the portable vacuum trucks, they would blow out instead of suck in. So he sent off to Europe and got some of the high speed nozzles and basically invented sandblasting in the US. Then he bought some of the trucks for a song since, remember the hand vacuum had just made them redundant. He began operating as the Acme Sandblasting Company. Somewhere along about there, he met one of the brothers of my almost spinster grandmother who said, "Ah! Frank Toors. Got his own business. Up and coming guy. Obviously clean and hardworking. This guy

could go far.” So they bring him home to dinner and marry the two of them off real quick.

01-00:18:35

Stein: What’s your grandmother’s name?

01-00:18:37

Warner: Her name was Lorrence Carroll. It was apparently a French name that was even uncommon in France. But in case you’re getting bored with this long story, these people are actually interesting because they’re going to later bring me up for quite a while.

So there they are. They move from Park Slope down to Flatbush. Buy a good sized bungalow kind of house like you could see in any old neighborhood in any city today. A big bathroom, three bedrooms upstairs, a giant attic, a big parlor, a nice living room and dining room. Sort of shotgun. A big kitchen, a yard. It was not rich but upper middle class for the time. My grandfather then dutifully takes the subway off to his office at Fifth Avenue and Thirty-Seventh Street. I’m not sure it was there then. It was when I was a little kid. He runs the Acme Sandblasting Company, which expands rapidly, so by the time of the First World War, he’s got ten or fifteen rigs, fifty guys working for him. He makes a bunch of money, drives Packards and Buicks and has a fifty foot boat that he takes to Lake Champlain in the summer up through the Inland Passage and so on. But we’ll return to them when I appear in the picture, okay?

01-00:19:55

Stein: All right.

01-00:19:56

Warner: Okay. So that’s enough. So that’s that side of my family. I got to just tell you that one of my grandmother’s other brothers uncle on the Braniff-side distinguished himself by heading off to Mexico in the 1860s. I guess there were two uncles that went. One of them was killed on the way by Indians. The other made it to Mexico City. Being Catholic, he figured out how to kind of grab a lot of the mercantile business in Mexico City, because it had all been Protestant traders, who the Mexicans didn’t like very much because it’s a very Catholic city. One thing and another, and they ended up making a lot of money, starting the first railroads in Mexico, owning a gold mine. By the time of Porfirio Diaz, who was the dictator before the Mexican revolution, one of them is secretary of state. After the Mexican Revolution, the Braniffs disappear from view a little bit, but obviously kept their money and lived a very upper middle class life. They reappear in the 1920s, when one of the grandsons becomes the Lindbergh of Mexico and doing all the famous first flights – to the U.S., to Europe, etc. Today, there’s a big statue of him in the Mexico City Airport.

01-00:22:13

Stein: Wow.

01-00:22:14

Warner: Kind of cool. Later he starts Braniff Airlines, which, thirty years ago, was one of the seven biggest trunk airlines in the world, until airline deregulation. So there was just this whole wild story. My aunt, who is now in her nineties, went down there in the forties because she was still like a second cousin. I would be a fourth cousin. My aunt was feted grandly by all the Mexican version of our Irish family.

This all comes down to they have four kids, one of whom dies in infancy.

01-00:23:00

Stein: Your grandparents?

01-00:23:01

Warner: Yes, my grandparents. And one of them, the third kid, is my mother, who was born someplace in the teens. She was around twenty-seven when I was born in forty-one.

01-00:23:22

Stein: Her name?

01-00:23:23

Warner: Elaine. Elaine Toors. So she grew up in this upper middle class family who spent their summers idyllically. My grandfather would take the forty, forty-five foot cabin cruiser boat—they had two—up through Hudson River, the inland passage and they would camp in Lake Champlain off of these little villages that were straight out of the 1840s kind of thing in those days. So they had a nice life. My grandfather worked hard and everything went well until 1929, when he had invested everything in the bonds of the Florida Seaboard Railroad or the bonds and lost every single penny. Had to start over again close to sixty. He had the company shrunk down – after all, few people were cleaning buildings in the Depression. But he managed to make it through and make enough money to keep the company going.

Then, gradually, as the economy improved and the war happened he retired with enough money to live out his life. Kept the house and the Packard, but not the boats. Well, actually, he did have the boats up until 1939 and the government took the big one because they just confiscated every boat in America over about forty feet because they could use it for something war related. Maybe just ferrying officers back and forth in New York Harbor or something.

01-00:24:37

Stein: Did he tell you about the experience of losing his money?

01-00:24:41

Warner:

Not very much. My uncle told me most, my mother's older brother. My grandfather had resisted all the way through the twenties all of the excitement and had put his money in government bonds and banks, but finally got caught up with it about six months before the crash. Somebody talked him into just putting all the money in these railroad bonds that couldn't fail and paid this high rate of interest and that was that. We're going to meet him again when I'm a little kid.

In the meantime, my future mom Elaine Toors went to a private high school in New York and then to an elite secretarial school. This was the lace curtain Irish influence—to become an executive secretary. It was a kind of school where people wore white gloves but didn't necessarily go to college. It was more like you're going to go out and work but at a fairly high level. My aunt, who went through this same kind of thing, spent many years as a young woman in New York being a secretary/administrative assistant for the surviving Astor of John Jacob Astor's family. She managed his affairs and even his farm, the paying the bills parts. My mother was going to do this. She was the captain of a bunch of the sports teams and she was, in a very robust way, a beautiful young woman.

01-00:26:11

Stein:

And this type of work had a good social standing?

01-00:26:14

Warner:

Remember, women had few job choices in those days so yes, it had good social standing.

My grandfather had, on condition of marrying my grandmother, said they were not going to raise the kids Catholic and she would never be allowed to go near a Catholic again. It was one of his few prejudices. They were brought up as Episcopalians and as young adults they spent time at Saint Bartholomew's Church in New York in its social circles. So yes, she had had a nice life, a nice school. In 1939, she meets my father, who is an up and coming New York lawyer. Had gone to Princeton, had graduated in 1932 from Columbia Law School. Being a lawyer during the depression wasn't easy and he had had to work six days a week as the junior junior partner lucky to have any job. But nevertheless, he always saw himself as going to be a successful guy.

My father's family is not quite as interesting as my mother's. He grew up in what's now Bed-Stuy, which had been the fancy section of New York, of course, in the nineteenth century. Henry Ward Beecher had his famous church there. My father lived in a house which his grandfather had built. His grandfather was of Scottish descent. I really don't know too much about him except that he was a successful builder and poor man's architect. Today we would call it the design-build business I guess. So he had built several blocks of houses, including the one they lived in. My grandparents still lived there

when I was a tiny kid. It was the kind of a big square wooden house with a big porch and then the long ornate parlor. It was pretending to be a rich person's house with pictures hanging on the walls with gold frames and little lights. Not quite the real thing. Not a real mansion. But it had a formal living room, a big kitchen, a big dining room downstairs, three floors, bedrooms all over the place, a couple of maids rooms. Upstairs was the parlor, where everybody actually hung out, especially the older people. They would all just gather in the upstairs parlor, which is a tradition that's just been totally lost in America, the upstairs parlor.

My grandfather becomes a lawyer in New York who qualifies by reading the law in somebody's law office. He gets involved in the real estate business, but not really as a builder. Kind of as a speculator. So there are pictures of him in the early 1900s in the newspapers, in the *Brooklyn Eagle*, with hair parted in the middle, hair slicked down with the headline, "Walter Warner up and coming investor in land and Coney Island." He had this law practice and was enough of a figure in his own mind, at least, that when Woodrow Wilson was elected, he hopped off to Sea Girt, New Jersey, where Wilson was holding court before he actually took office, trying to be named as a federal judge. This would have been 1912, 1913, because Wilson would have taken office in 1913 the way it worked in those days. Anyway, my father, Walter Warner Junior, who was born in 1908, remembers that at four or five years old being taken in tow with his father to meet Woodrow Wilson.

My dad shook hands with Woodrow Wilson; he was always proud of that. My grandfather wanted to be a federal judge in Brooklyn, which he never was. Later, he kind of flamed out as a speculator. By the time I was born in the forties, he had been retired for a long time and was slightly frail. I think he had been frail for about fifteen years because life hadn't quite worked out for him the way he had hoped. But certainly back in the day he had thought of himself as a big guy. So he meets my grandmother Clara Frost, a woman of English background. She claimed someone in her family could trace their American roots to the seventeenth century. Somebody or other was supposed to have been the lowest corporal in some Vermont militia unit during the American Revolution. In short, she had claimed to be a daughter of the American Revolution, although it was pretty tenuous in my view as a history major.

Anyhow their whole family is all about education, education, education. They're kind of the opposite of the lace curtain Irish who make their living in construction and building and running big stables and all that kind of stuff. These people are very traditional rock rib Protestant believers. Clara's brother, Ralph Frost, who I'm named after, went to China as a missionary as part of the huge missionary thing in the late 19th century. My father's first cousin—I called her my aunt—my cousin Gertrude, who I was very close to later when I moved out to the West Coast—who would be 120 at this point. She was born in China, grew up there. So I have loads of these wonderful China missionary

daughter stories. Her brother, of course, came back to the US, became a lawyer and an opium smuggler, basically, in the twenties and thirties.

01-00:32:37

Stein: What part of China were they in?

01-00:32:38

Warner: They were in Shanghai and, although they were missionaries, still part of the fairly fancy immigrant community. Now, this is cousin Gertrude Frost, who was my grandmother's niece. Ralph Frost, Clara Frost, my grandmother's brother, the one who went as a missionary. Gertrude is my father's first cousin, my first cousin once removed. She actually came to Cal. Her first trip out of China was as a sixteen year old who had studied all her stuff, learned her Latin, was a perfect girl. She was sent by herself to the University of California Berkeley, aged sixteen, on a steamship that stopped in Japan but didn't have gang planks. In those days, it was just a few passengers on a freighter. To let her land, they had to lower her in a cargo net. She bought a beautiful picture of a young woman with an umbrella in the snow as a keepsake that I have hanging in my house to this day.

01-00:33:55

Stein: Oh, wow.

01-00:33:57

Warner: It's like a really incredible thing.

01-00:33:59

Stein: That's amazing.

01-00:33:59

Warner: Yes. So she gets to Cal. This is a little digression, but it's such a great story.

01-00:34:04

Stein: It's fascinating.

01-00:34:04

Warner: This is about 1914 or 1915 – just before the US got in the war. But Gertrude has a problem – Cal won't recognize some of her credits from China.

01-00:34:21

Stein: How had she been educated? In a missionary school?

01-00:34:23

Warner: Privately, yes. Mission schools and privately in China, but not way out in the boonies. They were in Shanghai. Her father's got a fairly prominent position in some sort of Episcopal Aid Society. So they have a big house in China, a lot of servants despite being missionaries. You could live pretty cheap there. So anyways, she gets here and has to live in a boarding house while she gets tutoring to make up these credits. Anyway, finally, she makes it into Cal and falls in love, has this great love, which I have no idea whether we're talking

lots of longing or consummation or not. But nevertheless, has this mad love affair at Cal with somebody who then gets drafted and is killed in the First World War. Despite being attractive, educated and clever, she never marries and lives by herself to the end of her days.

01-00:35:23

Stein: Wow.

01-00:35:34

Warner: And I became very good friends with her later, because she lived in Laguna Beach in a house on the cliff that she and her brother bought with the opium money as a result of his smuggling. Just a little bungalow looking over the Pacific – not worth much in the 1930s. But the little sliver of land when she died thirty years ago was worth a million bucks. Forget the house, just rip it down.

But back to Clara, my grandmother. She goes to high school, I guess what would be teacher's college in those days in New York City, and she and her sister, Emma, and her cousin Bess, all become school teachers. Very quickly, my grandmother who has some administrative ability, is promoted to school principal in Brooklyn. She's gone back to Columbia Teacher's College in the summer to get a master's degree. Women are not allowed to go during the regular year, but they run these programs in the summer that women could participate in.

So she gets a master's degree. It's interesting to me now that my daughter's at Teacher's College getting her PhD.

01-00:36:36

Stein: That's wonderful.

01-00:36:37

Warner: So Clara Frost is principal of PS 109 or whatever in Brooklyn.

01-00:36:41

Stein: Was it common for a woman to be a school principal in those days?

01-00:36:43

Warner: Well, I think this was the first generation of women who could possibly succeed outside of the home. The migration to the cities had not, of course, only been from Europe. In the early days, it had been from the smaller towns in the US and still was, and little cities, and people who were sick of farms. At first it was only men that kept the farm, but gradually women found a way to New York as well and began to create their own opportunities. Smart women had almost no place to go outside of teaching. But by the 1890s, it was starting to open up. It was almost impossible to become a doctor or a lawyer or whatever, but you could become a teacher and then maybe even an administrator. Columbia, which was always at the forefront of everything in education was one of the first one to educate women to a master's degree

level. So anyway, I don't know. I'm sure there had been school principals in New York City before my grandmother.

01-00:37:42

Stein:

But it sounds like she was still part of the forefront.

01-00:37:45

Warner:

Yes. Then her sister and her cousin, who had also been schoolteachers, and I think one of them later was a school principal. Emma and Bess remained spinsters forever. So here, again, we've got Clara in 1905 in her early thirties, school principal, comes from this sort of rock rib family and looks like she's going to be a spinster forever. She meets Walter Warner, Sr., my grandfather, the hotshot lawyer land speculator, hair combed back, part in the middle greased back kind of I'm-going-to-make-a-million-dollars guy. They get married and set off on the grand tour of Europe. He was pretentious enough that they announce all this in the newspaper, the society columns, not only the marriage, but that they had set off to do not only Europe, but Egypt as well.

So the story goes, my father was conceived in Egypt on the grand tour. So anyway, he is born in 1908, later has a sister who is tragically run over at about age seven out in front of the house running across the street by a delivery truck. So my father ends up being raised as almost—well, not totally as an only child because he had a sister for seven years. By now, his dad is a slowly failing lawyer. The household includes the two maiden aunt teachers all of whom are all school principals, early suffragette types who believe in education, education, education. So not only does my father do Latin but also some Greek. Shakespeare by the yard of course, which he could still repeat at eighty. And advanced everything. In those days, Brooklyn public high schools were excellent. They had plenty of high level courses in the public high school if you wanted to take advantage of it.

So in 1924, my father graduates at age sixteen from Emmanuel High in Brooklyn and gets hustled off to Princeton. He enters into F. Scott Fitzgerald's world, where ninety percent of the people at Princeton went to Lawrenceville, or Choate, or Exeter or Andover. He's two years younger than everybody and is pretty much friendless for the whole four years. He is one of the five people in the class who does not get invited to join an eating club because he's just this young, public school kid from Brooklyn with no social graces. So he just creeps around Princeton. But nevertheless, loves it and later joins the University Club in New York, which is a very hoity toity thing to do and acts like Princeton was a great experience. As he became a successful lawyer, we vacationed at Lake Placid Club and various resorts in the Adirondacks. So he bought into the upper middle class life.

In 1939, he made what he thought was a very successful marriage to Elaine Toors, which leads back to the Brooklyn Bridge and me being born. So now in me we have all these family strains coming together. But for me, life does not

roll downhill easily. Instead, it becomes absolutely interrupted as compared to your normal person, because a couple of weeks after I'm born, my mother goes nuts and they diagnose it at the time as schizophrenia. She goes into a mental institution for a few months and I go off to live with my paternal grandparents, the Warners. She recovers a little bit and comes out and so I'm a baby with a mother again for a few months.

01-00:41:32

Stein:

This is when you were really little?

01-00:41:33

Warner:

Oh, yes. Tiny. My first year. Then Elaine starts hearing voices again and so she's hustled off to the Hartford Retreat or the Hartford Clinic. Bing Crosby used to always go, to dry out. The best of the best. My brother, who's a psychologist, who's looked at all this, my half-brother actually, thinks that it was probably postpartum depression that wasn't diagnosed - it can mimic schizophrenia if it gets deep enough. Who knows? The Irish are more prone to schizophrenia than any other race on earth. The back wards of mental institutions, schizophrenic wards, are more than half Irish and Portuguese who just seem to have a bad gene.

01-00:42:24

Stein:

I didn't know that.

01-00:42:26

Warner:

Yes. Yes, the Irish have a bad gene for schizophrenia and a bad gene for drinking. Or maybe depending on how you like your sauce, maybe it's a good gene.

But they certainly seemed happy enough in Ireland during the boom times. Anyway, I am hustled off to the big house in Bedford-Stuyvesant because my father is a busy lawyer in New York and he's a little clueless as to what to do while all this is sorted out. My mother's in the fancy retreat. It's probably the worst twenty years or thirty years or fifty years in the history of the world to be a woman with undiagnosed post-partum depression, because in his generation, you've taken the birth process away from women. Historically, at least in my imagination, throughout most of recorded history, women would have been in charge and might have known how to cope with women who were deeply depressed. But by this time, it had all become professionalized. Especially if you're upper middle class in New York City, you went to the Methodist Hospital. All your doctors were men. Your gynecologists were men, and certainly your psychologists were men. So they started doing this Freudian stuff, got my father in there—I've heard all this from other people. My father never would talk about it, but from other relatives—and decided it was his fault because he was a slightly cold guy. So they did all this Freudian stuff, like analysis. As a society, we later learned, when we got psychotropic drugs twenty years later, that most of the stuff didn't help.

So basically, they're spending all this money on something that was not doing any good whatsoever and she was getting worse. I know nothing about this. I'm a baby. I'm living with my father's mother, Clara, the retired school principal, who by this time has gotten fairly old and fussy with her husband, a frail, failed lawyer. The other schoolteacher types who had never married lived there as well.

01-00:44:27

Stein: This is the sister and the cousin?

01-00:44:28

Warner: Right. So there's like three or four older women and this funny old frail lawyer, and me, with my father showing up at night. After a while, it becomes clear that this is not working. They're just not coping with a baby not very well and I'm not thriving in this environment, apparently. People keep thinking, "Oh, well, it's my father's job to take care of this, blah, blah, blah." And so finally they have this family conference with my grandparents, the Irish Dutch side who live in Flatbush. Everybody decides they're a lot better people for me to live with.

01-00:45:02

Stein: How old are you at this point?

01-00:45:03

Warner: Oh, perhaps one. So now I have a third family. So I'm living where my mother grew up and I'm living with this incredible tinkerer interesting character who still owns the sandblasting company. They're now in their sixties. But very active and spry and interesting. I'm a happy little kid from the days of my first memories. You're looking at this, you're three, you're four, your first little recollections of anything – all good. I also remember that this guy would show up on the weekends who turned out to be my father. He would put in a sort of couple of hours on Saturday afternoon and take me someplace. Often, as I remember, to the tennis court—I'm probably remembering when I'm five or something—to play tennis with his buddy John while he kind of tied me to the fence, and then he'd take me someplace afterwards. I think I liked my father fine, but my whole life was my grandparents.

My grandfather, who had been so busy with blasting all those buildings had never paid that much attention to his own kids, but doted on me just outrageously, to the point where I think I might have lived there with them a year or two longer. I actually lived there until I was in first grade. So I was probably six. But at some point, it was just, I'm sure, very hard to cope for my grandmother to cope with my grandfather spoiling me from morning until night.

01-00:46:44

Stein: Was he retired at that point?

01-00:46:45

Warner:

No. But interestingly, he included me in to his business to the maximum extent possible. So as a four year old, I can remember going on trips with him to Newburg, New York, or out on Long Island to estimate blasting jobs. He would do all the estimating with notes in a little book, walking with his three piece suit. He still wore the old kind of collars from the twenties that starched but were separate from the shirt. He wore a diamond stickpin and a gold pin with a little tiny discrete—not Diamond Jim but just respectable. He called everybody Mac. He'd talk to everybody. His men seemed to love him. They died off like flies in the twenties, unfortunately, before they figured out respirators and silicosis, like coal miners. But once they figured it out, my grandfather was very fastidious. So the men would be up on these scaffolds. They still had what looked like more modern versions of the old vacuum trucks. They'd pull up with these trucks, big mac trucks. At one point I think my grandfather had forty of them. Each one would have a crew of three or four men. A foreman and three guys. And they would go up with these hoses and blast a building.

One of my fondest memories is being with my grandfather at age four, maybe five. How my grandmother let me out of the house, I don't know. But in my imagination it's dark, it's winter. I'm imagining it's eleven o'clock at night. It's probably nine o'clock at night. But we're someplace in the theater district of New York. This is a dark street but it's in the Forties on the West Side someplace.

01-00:48:28

Stein:

Is this a seedy part of town at this point?

01-00:48:30

Warner:

Well, no. It wasn't that so much. I'm always safe with my grandfather. My grandfather knows everything in my view. We take the subway everywhere. We love Horn & Hardart's. We've been there a million times. I get the nickels and you put them in the machine.

01-00:48:42

Stein:

What is Horn & Hardart?

01-00:48:42

Warner:

Horn & Hardart was this chain that died in the sixties but had existed in New York for at least fifty or seventy years. It was called an Automat and everything was behind little glass windows. You've probably seen it in a movie. So you'd put in fifteen cents for your lettuce and tomato sandwich or something. The lions gave the hot chocolate. So you would put in a nickel and you'd get your cup, you'd put it under the lion's spigot, a spigot that would just come out of the wall magically with a lion on it, and you'd put your thing and then you'd pull down the lion or whatever and out would come your hot chocolate.

And I would be given like enough nickels to buy four lunches by my grandfather and set loose to get whatever I wanted from behind those windows. We did this all the time. When I found out later how *déclassé* the automat really was, I was so disappointed later, because I thought as a little kid—I still do—it was so much fun. So anyway, he would take me to work and my grandmother would probably protest but there was no changing Frank Toors.

So anyway, we're out there. It's dark, it's night, it's in the winter. He's got his truck out there blasting and along comes a cop on the beat. My grandfather sees him half a block away. He's obviously done this a hundred times and he says in a loud voice, "Hey, Mac, could I talk to you?"

So there we are, the cop is walking towards the truck and my grandfather sees him coming. And, of course, you can't be doing sandblasting with a big truck and a bunch of men at night in New York without violating half a dozen laws, right? And so my grandfather clearly knows that. So it's like, "Hey, Mac, Mac. Can I talk to you?" And I'm sort of following him up the street. He's got his suit on, looking very professional. "How you doing tonight?" He shakes hands with the cop and he says, "Now, what's going on down at the station there? Is it that it's somebody's birthday? Did I hear there was a funeral?" So he's just working through to what it is the cop wants to be bribed about. I'm still amazed at how smooth he was. And they're chatting. This is what you do if you're doing construction in New York. It probably still is. So in those days, it's like five bucks instead of fifty bucks. So they decide that Sammy Somebody or other has just died and that his wife needs help paying for the funeral, so the money passes hands.

01-00:51:31

Stein:

And you remember this as a little kid?

01-00:51:32

Warner:

Yes, oh, absolutely. Totally. I remember it vividly.

01-00:51:34

Stein:

You were like five or six?

01-00:51:35

Warner:

Five. Something like that. I don't know what. You know how you just have those little moments?

01-00:51:38

Stein:

Yes, yes.

01-00:51:40

Warner:

And I can remember, also, my grandfather pulling his Packard up at Thirty-Seventh and Fifth and leaving it there for half a day. Almost always took the subway, but there was no problem when he wanted to drive because that cop had obviously also—

01-00:51:53

Stein: They were friends?

01-00:51:54

Warner: Yes, they were friends. So I had this life. Macy's Day Parade was a big thing in my life as a kid. We'd load on the subway. There were movies but there was no TV.

01-00:52:05

Stein: Would you ever beg for money at the Macy's Day Parade or was that before your time?

01-00:52:08

Warner: Didn't ever do that. We would get up early on at Thanksgiving Day. We'd get up at 6:30 or something, have oatmeal in the old kitchen that my grandmother would cook all night in a double boiler always. She just believed that oatmeal had to be started at nine o'clock the night before. Get on the subway, get over there half an hour or an hour before the parade was going to hit, like wherever our spot was, Forty-Sixth Street and Fifth or something, because it would start way up on Fifty-Seventh Street and then end up at Macy's down on Thirty-Fourth.

Yes. So this is like 1946, forty-seven. It's before TV and stuff. So the gigantic balloons and the stuff and all the marching people, Gene Autry on his horse and Roy Rogers and that stuff. It was all fresh and exciting. You can imagine what fireworks were like to people in the 1880s, before there was all the neon and the stuff in the movies. But that was maybe the last time. By the time the parade got on TV, it's like the Rose Parade.

01-00:53:14

Stein: Right. Lost its thrill?

01-00:53:15

Warner: Yes, kind of lost it, at least in my view. So anyway, we would go every year. This would continue even after I'm about to get to my new life in 1946. But I should talk a little bit about living as a small kid in Brooklyn at that point, because the neighborhood had become lower middle class by that point. There were still these bungalows and a few older people that lived in them, but a lot of row houses had filled in, sort of brownstones that had been built in the twenties or thirties. Often the people who lived in them were mid-level office workers. Before computers a company like Merrill Lynch hired armies of clerics. They were kind of what we would call pink collar kinds of jobs.

01-00:54:23

Stein: This is in Bed-Stuy?

01-00:54:04

Warner: No, this is in Flatbush.

01-00:54:05

Stein: Flatbush, okay.

01-00:54:06

Warner: Near King's Highway. That neighborhood is Hasidic now, but in those days it was a mixture, Irish, Jewish, Italians. Just a normal sort of melting pot. My grandparents liked it there even though it was no longer upper middle class. They saw no reason to move. They just kind of kept living there, although they could have moved to some suburb, I suppose. My first baseball game was at Ebbets Field. Anyhow, I lived with them until I was six, so my memories there were mostly the kids on the block, the fact that Brooklyn was so safe in those days, I was allowed as a four year old the run of one side of an entire city block on one side. Maybe I wasn't supposed to go to the very end, but certainly a long half a block, which would encompass at least twenty houses. I could just go out of the house on my own. I'd go down the street and my best friend, Michael Shramn, I wouldn't knock on the door. I'd call for him. In Brooklyn, everybody called. You'd just yell out from the front steps.

He would do the same thing with me. My first girlfriend was Eileen Cagney, who lived a couple of streets down who had a father that was a total drunk, itinerant laborer, twelve kids packed in a little narrow kind of row house. They only survived because Eileen's grandmother was like my grandmother, lace curtain Irish. They had a little money, and lived in a big house on the corner, and gave them just enough money to survive. But he just drank most of it up. But nevertheless, Eileen was incredibly cute. I still have pictures of her. She was the first girl that I would go in the back room and play doctor with. Kind of like my first girlfriend. So the three of us –

01-00:56:03

Stein: You were all in the same block?

01-00:56:03

Warner: We're all in the same block within about ten houses. Since Michael and Eileen were my buddies, my grandfather would take us all on fun outings. Every weekend would be the boring time with my father and then there would be the exciting time with my grandfather, who really knew what kids liked. He'd just become another kid. So it was frequently the Natural History Museum in New York. It was often the planetarium. We loved Coney Island. Oh, my god, we went to Coney Island so often, and all of us would get a couple of bucks of nickels to go on rides.

01-00:56:32

Stein: Where did you guys go on Coney Island?

01-00:56:33

Warner: We'd go to Steeplechase Park, which was still there, which had gone back to the nineteenth century. We'd ride those horses around and we'd go and stuff like that. We loved all the things, rolling the balls into the metal circles and winning cool junk. I just remember being so proud of coming home one time

with a little China doll. What really excited me at five was that it was made in occupied Japan. I still remember occupied Japan. I wish I still had it.

[End Audio File 1]

Begin Audio File 2 07-02-2009.mp3

02-00:00:00

Stein: All right. This is Julie Stein again, interviewing Jake Warner. This is our tape number two on July 2, 2009. So why don't you just jump back into the stories that you were telling about Brooklyn in the forties.

02-00:00:17

Warner: Well, we left off in Brooklyn in about 1945, 1946. One thing I should mention that was important to me, was that in addition to my grandparents living there, my Aunt Jean, who's still alive, was still unmarried, although she was working in New York and had a good job. She was still living with us there at 1469 East 19th Street in Flatbush.

02-00:00:41

Stein: Will you tell me whose sister is she?

02-00:00:45

Warner: My mother's much younger sister. And so that made it an even happier time for me, because I had this doting grandfather, this very nice, but slightly stricter, grandmother, but yet this twenty-five year old who was like my big sister, my young mother. Everybody was so sorry for me because my mother was institutionalized. I was the apple of everybody's eye. It was this weird thing, which I'm sure psychologically was strange in terms of forming relationships later. Anyway, I can remember my grandmother and my Aunt Jean were close and sometimes they would take me to the movies. But outings were mostly something that I would do with my grandfather, because he was great at concocting adventures a boy would like. But my aunt and my grandmother would rush off to the Avalon on King's Highland to see Ray Milland kind of thing. This is before anybody had TV. My aunt played the piano well. There was a baby grand piano. So it was sort of a little livelier then.

Everything went well for me until my father made this fateful decision of letting my grandmother decide where I was going to go to kindergarten. Although this sounds like, "Oh, why is he talking about this?" it was a miserable and formative in my life. We all have our places of fear and our places of happiness, our places of security. A lot of mine, of fear and insecurity and misery, came from the fact that my grandmother, who had been prohibited from going to the Catholic Church for forty or fifty years, was nevertheless a closet Catholic. So when it came time for me to go to the public school, my father, who at this point is living in New York, still married to my mother, still holding out some hope for her recovery. But she, by this time, has

had a lot of electric shock therapy. Nothing's worked. They couldn't afford the Hartford Retreat anymore so now she's in a state hospital. It's really time to give up but he hasn't quite gotten around to it. Maybe he's having fun in New York being a single guy.

02-00:03:02

Stein: Did you visit your mother ever?

02-00:03:04

Warner: Interestingly, I didn't. My grandmother, being lace curtain Irish, believed that mental illness was something you couldn't talk about to children, and you certainly would not take a child to a mental institution. My father, after a couple of years of trying and being told it was all his fault, had finally just stepped back, and by the time she went to the state hospital, had given up. My grandmother had not. They visited frequently. I would stay with my aunt or someone else, or at my cousins on Long Island. My mother's older brother, Uncle Frank, who looked exactly like Brooklyn Jimmy Carroll, the fighter, dropped out of high school. He was a famous football player in New York but quit at sixteen because he was running a still on the side and making money selling moonshine. This was in the twenties. Later became a huge success in the insurance business, made a lot of money, had boats.

So I would go out and stay with my cousin Marjorie, who was six weeks older, in Bay Shore while my grandparents went to the hospital. At this point, my mom was in a state hospital.

02-00:04:11

Stein: Was the state hospital in New York City?

02-00:04:13

Warner: It was on Long Island. I later went there. But since my father was in the process of giving up, my grandmother had kind of taken control of that part of the relationship. It was her daughter, it was her relationship. She just made the decisions, including isolating me. Afterwards, everybody said they thought it was the worst decision in the world. Every single person who was involved in the family, my aunt, my uncle, everybody, but nobody had the power quite to stand up to my grandmother. One would have thought I would have seen my mother all the time. Nothing was probably at this point going to do her any good, because nothing much did until drugs came along twenty years later. I don't know. So anyway, it was what it was.

But the traumatic part for me is that my grandmother tells my father that public school in Brooklyn is too rough. Huh! We just live in this Irish, Jewish, Italian really safe neighborhood. But nevertheless, my grandmother pushed that I be sent with Michael Shramn and Eileen Cagney, both of whom were Catholic, to Saint Brendan's, which is about four corners away. It was this typical Brooklyn Catholic working class neighborhood sort of church with the nuns in the convent living right next door. All these Irish girls, one from every

family, the homeliest ones. They were living in this miserable little convent tenement next to the big church with all the candles and the linoleum floor. But candles, candles everyplace inside. You know a working class Catholic church with the big altar? My father was Presbyterian, and my grandfather, who is not religious but who insisted on no Catholic upbringing. I had been sent to a Protestant kindergarten. A Sunday school kindergarten. My only church experience had been baptized in a Presbyterian church, and once in a while, maybe the year before, as a little teeny kid going to little teeny kid, nice, safe, Sunday school with innocent little pictures and stories about Jesus. So suddenly—

02-00:06:47

Stein: You were always Protestant?

02-00:06:48

Warner: Always Protestant. I had never entered a Catholic church. I had never been in the same room with a nun or a priest because all this had been banned by my grandfather. But my grandmother won out because my father believed that Catholic education was sort of rigorous and it was better for you somehow, and also that Catholics were good at instilling order. So he agrees and I get dropped off at this kindergarten with these nuns in full scary black regalia with the white bib. With these rosary beads hanging all over them. I had never met a nun before. Oh, and to top it all off, two times a day, morning and afternoon, we had to walk across the street to the big church from the school building and get down and pray in front of these goddamn candles. Well, I was horrified by this whole thing. I was just frightened by everybody. I was frightened by the nuns. I was frightened by the church, the candles. I didn't know what we were doing. I remember crying a lot. The one thing that sort of sticks in my mind is it got to maybe November or December. It was snowy. I just remember one day I couldn't get my galoshes on, and this nun who I had been hiding from came over and actually helped me and was kind. It still strikes in my mind, "Oh, my god, they can be nice." So it's just a blur, of course, being a kindergartner. But it was this just miserable, unhappy blur.

02-00:08:14

Stein: Do you remember them being mean or just terrifying?

02-00:08:15

Warner: No, no, I don't think so. I think I was just terried. But it was all about order, even the kindergarten. So everybody was sort of strict. You only saw a little bit of the nun's faces in those days in the strict habits. Everyone was in a big classroom. I don't know whether it was thirty-five, forty kids, whatever, just a big, big kindergarten. So they didn't really test you or teach you anything. I think I sat there as a little squirrel and said nothing and was afraid. Later, it turned out that when I got to first grade and couldn't learn a thing, the teacher figure out I was half blind, but nobody had noticed it in kindergarten. I had astigmatism and couldn't read anything.

So around Christmas, I just got sick. Sick, sick, sick. I got the flu. I remember Dr. Glin showing up all the time. I'm sure I was acting out to some extent. I was becoming difficult and sort of slightly hysterical, probably to avoid going back to school. So they decided in the middle of the year—kindergarten wasn't mandatory in those days—that I could just stay out the rest of the year. This probably was one of many strains that precipitated the fact that by the end of that year my grandmother was saying, "I'm seventy now. This is getting kind of a lot for me." What are you going to do about your son?"

So all these strains came together. My father went out to Reno. In those days you couldn't get a divorce in New York State. So he had to go out, establish residence, live in Reno for six or eight weeks, whatever was required, and get a Nevada divorce. He still agreed, somehow, as part of the whole settlement, to support my mother until the end of time. So he was sending money to the state of New York until the day she died, which was at sixty-seven, which always kept us as a family a little broker than we would have been, because it was doable since he turned out to be a pretty successful lawyer.

So he, as it turns out—and this is probably barely interesting—had a girlfriend in early 1946 in New York, who—I've never really found out—he decided was unworthy of being a mother or she decided she didn't want to have a kid. My father breaks up with his girlfriend. I know this mostly because she wrote a letter fifty years later to my stepmother at my father's death announcing how they had shared the same man all these years. So I kind of think that my father wasn't always playing bridge on Tuesday nights at the University Club. But more power to him. Lead an interesting life.

So he has to go out and find a wife. So he finds Gertrude Henry, my stepmother, who was very wonderful to me and I loved dearly. She died just a few years ago, almost in my arms out here, in an assistant living home in California. She had graduated from Cornell, had a home ec degree, had worked during the war as a career gal at twenty-four, twenty-five for various electric companies trying to get people to use less power, conserve power, convert to gas, which was cheaper. So she had an early career bustling around Central New York State. She had moved to New York about the end of the war and got a job as foods editor of Good Housekeeping. She would be in charge of the food recipe section of the magazine each month. She was very, very proud of being the first to experiment with color and taste. They made six cakes: the strawberry one, the lemon one, the vanilla one, the chocolate one, and so on all with exactly the same ingredients, just faux food coloring. Then they got all these people off the street to decide which cake they liked better, and, of course, they all liked different cakes and the magazine had a great story.

So anyway I don't know what my father felt. But since they never were remotely in love with each other as far as I could ever see, I think he just picks out a good mother. I am introduced to Trudy, as I called her, Gertrude Henry.

She was an only child from Syracuse, New York. So I'm five, going to go on to six that summer and so far I had met her once. Then another time I remember going and stopping by her apartment in Forest Hills because my father belonged to the West Side Tennis Club, where he used to like to play and which was nearby. They used to have the US Open there. It was the snotty tennis club in New York. I remember meeting her and being surprised, flabbergasted, that we stayed overnight at her apartment. This was so strange to me. What was going on? It was very modern. She loved Swedish modern in the forties when it was brand new in America. My grandmother, of course, had a house full of mahogany kind of things. And we're at the West Side Tennis Club. I'd been there before because my father played tennis. But still were on the terrace having drinks with the fancy people. "Oh, that's Jinx Falkenburg. She has a big New York radio show," I remember Trudy saying kind of breathlessly.

A little sidebar here. They we go on a skiing trip back in March. My father catches pneumonia and almost dies. In fact, I think they thought he was going to die. It was the early days of penicillin. It was just one of these things that happened. So what would have ever happened to me? Living with my grandparents forever? Anyway, they get married in the summer of forty-six. I am at the wedding because I've seen pictures, but I just don't remember that. Only through pictures. Off they go off on a brief honeymoon someplace. This happens like maybe in August of forty-six. The day before school is going to start in the fall, they pick me up and my grandparents and we move, the three of us. It's to suburban Larchmont, New York, where they have bought a house in a neighborhood where they know no one, and, of course, I know no one. One minute I'm in lower middle class Brooklyn. If you go on the next block, you better have your fists up. So Brooklyn, right. The next minute, I'm in leafy, Larchmont, New York living in an English Tudor style house with this brand new mother who I'd met only once or twice maybe, and a father who I really don't know very well. Oh, by the way, I'm starting a new school and first grade the next day. So I just remember being terrified, terrified, terrified.

02-00:15:15

Stein:

Were they about the same age?

02-00:15:16

Warner:

No, my father was ten years older. I think they bonded somehow or other and had an ok life. They had a child, my brother Alan. But I think that at any kind of fundamental level, neither one of them knew much about intimate stuff in life and weren't very excited about it. Jumping ahead, Trudy calls me up at age seventy, after Dad died. This seventy-two year old biddy who talks a lot but is usually off point and is very sweet somehow finds a second husband at a time when there's nine women for every man. She moves up to Somers, New York and is madly in love for the first time since she was in high school. She calls me up and says, "Well, Dale was chasing me around last night. My

god, you just can't believe what happened." And so she's explained to me her first orgasm. It was so great. I can still hear my wife Toni laughing in the background. We're just, "Oh, my god."

So to put a little perspective. My father is very annoyed at how the New York newspapers covered his marriage, the *Herald Tribune*, which was the newspaper that upper middle class Protestants read at that point, New York being totally religiously divided in the forties and fifties. He was the up and coming lawyer from Princeton, not so young anymore, but still junior partner in a well-known law firm. Anyway, they announced it. It was Saturday and they gave them a good sized headline with Trudy getting top billing. It was, "Prominent foods editor marries lawyer."

Anyway, so I'm living in Larchmont, New York. I spend a year being sort of unhappy because I didn't know anybody. School has been traumatic for me before and it still was. I remember having a lot of tantrums and sort of screaming. They used to turn Jack Benny up loud on Sunday night and I would howl in my room because I had school phobia. I think it would always tend to happen on a Sunday. I hated going back to school. I had a little bit of Brooklyn aggression around the neighborhood, so the other kids parents wouldn't let their kids play with me for a while. But that gradually worked itself out. I walked to school. It was the kind of leafy suburb where you not only walk to school, but you could walk home at lunch. You had an hour at lunch, and your mother—in my case a stepmother—didn't work. I very quickly pretended that my stepmother was my real mother and at first everyone believed me because we just moved there. But Trudy would gradually tell their parents, and so people would say to me, "Well, that's your stepmother." I'd say, "No, no, she's my mother."

02-00:18:18

Stein:

Did she stop working at the magazine once she got married?

02-00:18:20

Warner:

Yes. Oh, my god, a lawyer's wife in those days? Of course. Her job was to do nothing but cook, dust the house, and then join the garden club and the home ec club and this club and that club. Eventually, when I was about eleven, they had their only child between the two of them. My half-brother, Alan. He lives in Nova Scotia these days, and is a psychologist and college professor. Despite the difference in ages and the difference in geography, I'm totally close to him. I love him to death and I'm very close to his kids. Small family. He mostly forgives me for tormenting the hell out of him when he was little.

02-00:18:57

Stein:

Can I ask you a quick question?

02-00:18:58

Warner:

Sure.

02-00:19:00

Stein:

How was your father involved in the war? Did that affect him at all?

02-00:19:02

Warner:

He wasn't. He was born in 1908. He was born early enough that he was sort of marginal. He would have been thirty-three in 1942. But he also had me, so he got a deferment somehow on the hardship of a crazy wife and a child. So no, he wasn't in the war. He actually prospered during the war as the country started getting more prosperous. He moved up from the junior slave in the law firm to junior partner, which is a concept that's totally gone in these days. But a partnership in those days meant like you owned part of the place with lifetime rights. It wasn't like now when they can put a partner out to pasture at fifty.

About 1947 or forty-eight, a couple of the old geezers who had run Chambers, Claire and Gibson, which had been there for forty years and was the kind of law firm where you a Catholic partner, a Protestant partner, and often a Jewish partner, one or two of each, and they each worked their own side of the street, as they used to say in those days. The Catholic guy got some business from the Catholic archdiocese, because he was one of the connected lawyers. My father actually represented a number of corporations, but also had business from Trinity Church, which is a big landowner in New York on the Protestant side. It was a different world. Everybody belonged to different country clubs. They could only go to the other person's club sometimes. You could have a Jewish guest at a Protestant country club and vice versa, but not a lot. I'll tell you about my caddying experience in some of these places later, because that was really formative.

So anyway, by fourth grade, I start getting a lot saner. I start having a lot of friends, fitting into school, getting over some school phobias. I'm not getting sick all the time as I was.

02-00:21:09

Stein:

What school did you go to?

02-00:21:10

Warner:

I went to Murray Avenue School in Larchmont, New York, K through six. The first couple of years were a little rough and rocky for my teachers because I was so phobic about school and didn't do very well. Well, this didn't end for quite a long time. I was endlessly called aside and saying I was an underachiever. I was always being told that if I would just be able to concentrate and pay a little more attention, they were sure I would do well. I think I was passed one year on condition. It would depend a lot on if a teacher was warm and huggy. In one case, in third grade, I had a teacher, Ms. Dobbler who was very much like my aunt. A kind of athletic twenty-five or twenty-seven year old, who was very nice to the kids. I just thrived with her. I just loved the hell out of her. Other years were a little tougher. But by the time I was in fourth or fifth grade, I was getting secure enough to be one of the kind

of slightly smart-ass talk backy kind of kids. Bright red hair. Not light, because I had brown eyes, but very red, so the cops and everybody knew me and would run their hands through my hair. I had an out there personality and so teachers and other people either liked me or hated me. “Oh, god, here comes that kid again,” kind of. I was getting secure though and getting into the life.

Larchmont, in those days, was a very secure place. You’d go out to play as a third grader and you were allowed to go maybe three blocks from the house in all directions - not cross the very busy street but otherwise no rules. Nobody expected to see you until lunch and then again until dinner. Nobody had to know where you were. As you got a year older, you could go another block each year until by sixth grade you had the run of Larchmont. On Halloween, all the kids would come over and you would just go out all by yourself. The idea of a parent walking around on Halloween would have been nuts. The bigger kids would be getting into trouble and doing terrible things like breaking off car aerials and throwing toilet paper over wires—that was about as bad as it got. It was just a different world in terms of not being so programmed. We had Little League and stuff like that, but not nearly as much. My father never thought he had to come. I was a good basketball player, so I was always doing well with that. Good enough. On half of my family, the Irish side had been very good in sports. My father’s side had been terrible and klutzy and I was sort of in between. But I was certainly good enough that if there was a pickup game in the neighborhood, I’d always get chosen closer to the good end than the bad end. I loved everything like that. We played hockey on our old skates on the frozen lakes on the golf course, or on the duck pond. You would get your stick and your pucks, sometimes we used rocks, and you’d just play hockey every day for three or four weeks until the ice melted. Then we’d play basketball after school every day, and then baseball at school. I’d run home for lunch, eat in fifteen minutes, run back to be the first one so I’d get second base kind of thing in the spring and fall.

02-00:24:26

Stein:

What about the summers? What did you do?

02-00:24:29

Warner:

After first grade, I was sent off to summer camp because my parents needed a little peace, which went right back to my phobia, because I had really had hardly a parent. So I was just terrified. I was sent to Camp Half Moon maybe in second grade for a month where I didn’t know anybody. My parents being always a little myopic about anything to do with kids, me, or social stuff in general, didn’t realize this would be hard for me. So instead of doing what I did when it was time to ask my kid, “Do you want to go to camp?” “Well, I don’t know. Would I know anybody there?” “Well, yes. You’d know a lot of people there, because I’m going to find out who’s going there and we’re going to get together and you’re going to really be their best friends.” “Oh, okay. Well, that’d be great, then, because it’s a farm camp. I like animals.” So

sensible parents would do this. But my parents never knew how. When I had a cavity, they got gold put in my teeth. But they had no clue about the little stuff.

When I was about fifth grade, we moved to a nicer house up closer to the country club which we had joined, Bonnie Briar Country Club. So it was not a super fancy place, but you'd go to the country club and have dinner on Saturday night kind of place. They had a swimming pool in the summer.

I did go to Camp Half Moon, to answer that question, for a couple of summers and rebelled so much and was so unhappy that then they let me hang around Larchmont a couple of summers. Mostly what I would do, to be happy, would be go back to my grandparents house. I'd spend a month with them. That would be my happy month in the summer. My miserable month would be going to the summer camp or later just hanging around, because all my friends would have gone to summer camp. Later, by the time I got to be a little more grown up and secure in myself in about sixth grade, sixth, seventh, eighth, I was in Boy Scouts. It was really a cool program there and we did all sorts of camping and stuff. We were in the woods all the time. Later, Explorer Scouts did these long canoe trips in the Adirondacks for ten days kind of thing. But there was Boy Scout camp and now I wanted to go to camp because all my friends were going to camp. It was a much funkier camp than Camp Half Moon. It was up near the Sing-Sing Prison someplace, just outside of some ratty hillside with these funky Boy Scout cabins and lots of white Wonder bread. But we all loved it, because we would go as our entire gang of about ten boys. I had lots of friends, mostly boys, and we'd all get to go together and we'd figure out, "We're just going to wreck the side of this mountain," and other anti-social stuff. But, of course, the counselors were one step ahead of us and always signed us up for exhausting activities so we never wrecked anything. The worst kids always got signed up for the fifty mile hike. So I always did the fifty mile hike on the Appalachian Trail.

02-00:27:19

Stein:

Oh, that sounds like fun.

02-00:27:20

Warner:

So it was just a normal childhood. I remember being a little traumatized when suddenly I'm going to have a brother because that makes me a little insecure. Like they're going to love him more than me, but that never really happened.

02-00:27:39

Stein:

What year was your brother born?

02-00:27:40

Warner:

He was born when I was about eleven. We had moved across town. But pretty much the same life. I was still going to sixth grade at the same elementary. The next year, I began junior high system. Larchmont didn't have middle school yet. All of the kids in both Larchmont and Mamaroneck went to the

same junior high. None of that made any difference. My closest friends were in the old neighborhood when I moved, but it was really only a mile away. And anyway, I was starting to, like any kid, make friends from a broader background. Your interests change from your little kid friends to your middle kid friends.

My father would take me skiing sometimes in the winter. That would be fun. Sometimes we'd all go and sometimes I would just go with him. That was sort of a bonding thing. Go up to New England someplace, sometimes to Stowe, Vermont. Sometimes I missed out on vacations as a little kid because I was at the summer camp and at my grandmother's. But as I got older and I was refusing to go to camp or went to Boy Scout camp for just part of the summer, I would get to go to Lake Placid with them and stay at the big old Lake Placid club on a lake. This was the kind of place where, believe it or not, you had to wear a tie to dinner even if you were an eight year old.

02-00:29:05
Stein:

How'd you like that?

02-00:29:07
Warner:

Three golf courses and forty tennis clubs. They'd play the New England Championships there or something. It was in the woods. It was in the Adirondacks. My parents were very happy there. My father just loved it there. He loved dressing up for dinner and acting like this was the 1890s and shaking hands with all his prosperous friends. Trudy liked it. She'd always say, "Well, can't we go someplace else? Can't we go to a national park? Can't we go to Europe? We should be a little more adventurous." My father would reply, "No, I went to Europe twice when I was in my twenties. I don't need to go there again." So she would protest every year, but once she was there, it was a very comfortable life. We'd have a cabin in the woods. You'd be there for a couple of weeks. Everything was provided. It was just great for a kid because there'd be other kids, especially as a teenager. Even when I was fifteen and sixteen, I still would go with them. I think one of my happiest memories is—I'm sixteen now—and you're there with other kids so it's easy to have early girlfriends. But we also all had our driver's licenses forged because you could drink in New York at eighteen in those days. Nobody really believed it because we were all such kids, but we were sixteen. We'd sneak out at nine o'clock at night over to the town of Lake Placid and be madly in love with each other and go dancing with the college kids and drink beer and stuff. So it changed from being a—

02-00:30:33
Stein:

Little kid.

02-00:30:34
Warner:

Yes. So that was nice. I think the big formative experience for me in childhood was about age eleven or so. We had joined this golf club. I went over there and started learning how to play golf a little bit. My father gave me

a few golf lessons but basically was cheap, so I had to sort of learn on my own, despite we're members of the country club. But a friend of mine and I started caddying. And even though we belonged to the club—there was a little tradition that this was possible. It was kind of frowned on because of the social gulf between members and workers but they'd let you do it. The caddies were often slightly failed Italian wine bums with small time connections to the mafia or other social misfits. They taught me how to play the numbers when I was like eleven.

02-00:31:19

Stein:

Were they much older than you? Were they teenagers or twenties?

02-00:31:21

Stein:

No, no. These were a lot of guys who were in their thirties or forties or fifties. They would go to Florida in the winter and caddy at the fancy clubs. A lot of them went to a place called Hollywood, Florida, which had been sort of a mafia hangout. Al Capone had owned part of one of the clubs and played golf there with people marching. His guards marching down both sides of the fairway with Tommy guns kind of thing. So this was the lowest level of so-called "connected" people. These were people who maybe weren't too smart or drank too much. Then on the weekends, after their shift, some of the local firemen and policemen would come in and they'd always be given first choice, because you could make—I'm talking, I'm eleven or so, early fifties. You'd make four dollars for carrying one bag eighteen holes and eight dollars to carry two. By the time I was thirteen, it had switched to ten. So ten bucks. It's now fifty bucks a bag, but the purchasing power is about the same. I was tall. I just had grown really quickly in about sixth grade. By junior high, I'm six two and I was probably over six feet tall, really skinny. The first day I went up there in the afternoon to try it out, I had just been on the golf course a few times, there was no other caddies and so they said, "Would you carry two bags?" Most caddies always started out as rabbits, carrying one bag. And so I did, and from that day on I was a two bag caddy, even though I was so young. So most weekends, at least one day, and then later, because I liked money, both days. I would go and sit in the caddy yard and me and my couple of close kid buddies would be sort of at the bottom of the barrel. On the weekends, all the people that joined the country club would start about 7:15. All week, they're all in New York in law or advertising or something. So the big thing was people just tended to play golf Saturday or Sunday. Spending time with their wives was no part of it. Women were not allowed to go near the golf course on the weekends until one o'clock. A guy who played with his wife after 1:00 more than once a month was regarded as a total pussy kind of guy.

02-00:33:34

Stein:

Did women play golf?

02-00:33:36

Warner:

Yes, they had women's day. Since most wives didn't work, they all played during the week and had a luncheon. Thursday or something. Occasionally, some guys would play eighteen holes on a weekend morning, have lunch, and then play with their wife in the afternoon, especially if the wife was red hot. But yes, wives were sort of expected to play golf, because what else did they have to do? I worked there at Bonnie Briar for four or five years, close to about age fifteen, and increasingly in the summers whenever I was in between, not going to scout camp or going to Lake Placid. So I would be going from this fancy resort and country club to the caddy yard. It was the first time I ever met a black prizefighter who was one of the cadies. He had been an up and comer, but had fallen in with the wrong people and he'd thrown a bunch of fights to make money for mafia guys. So now, what they did was every couple of months they'd put him on an airplane and take him to Italy or some place in Europe. He was about six five, this gigantic guy, and they'd put him in with some much smaller Italian heavyweight in Palermo or something. And he would allow the Italian guy to hit him hard and then face being knocked out. The Italian guy would win and the gamblers would collect. I don't know exactly how it worked. Then he'd come back and he'd have a few hundred bucks in his pocket, but when that ran out, he would come on up and caddy.

02-00:35:14

Stein:

And he would tell you all these stories?

02-00:35:14

Warner:

Yes, he'd tell us all these stories. And the Mafia, the guys, they would be full of stories about so and so, who they knew, who was the next guy up the ladder, who was a bad dude and really connected. So I'd just be in this other world. Back home we read the *Tribune* or the *Times*. They read the *Post* or the *News*. And you'd be in this funky caddy yard. But the interesting thing was my father believed in never giving a kid a penny. An allowance was just not something I got. Especially if you're an upper middle class kid in Dad's view, people just spoil their kids and they end up like not knowing how to hustle. It's not an uncommon parental view, but my father carried it to extremes. So even at Lake Placid, if I wanted to play golf, I had to pay for it unless I played with him. I just went out and solved this immediately. I always had money in my pocket. I could do whatever I wanted. I always had in my dresser hundreds of dollars. My parents would always tell me I was supposed to put it in the bank and save it for my college education but I was having none of that. I had to work for this money. It's mine. I would buy frivolous things for myself that other parents might have bought for their kids. I'd go buy myself a new ten speed bicycle or something. Later, as soon as I was about sixteen when we would go to Lake Placid, it'd be an adult world. You'd be introduced to the very lovely daughter of your father's best friend who happened to be the same age as you were. Then we'd, as I said, sneak out and do stuff. When we came back home in the Fall, I had money so I would invite the girls to go to New York City, with my phony driver's license. Jane Lidell and Sue Selby come to

mind. We would go to the Plaza Hotel, to the Rendezvous Room where we were totally flummoxed because we really didn't know how to tip the headwaiter. We would dance, and it would be four of us. We'd go as two couples. We would just get loaded and dance and have fun, and then we'd go back to our little respectable teenage lives the next day. I'd be back in the caddy yard hustling for money. We didn't do this all the time but we did it a few times. We'd do stuff like that.

02-00:37:30

Stein:

Did anyone have a problem with you hanging out in the sort of mixed company in the caddy area?

02-00:37:36

Warner:

No. My father was very proud of me. He thought that this is exactly what kids ought to do. What I should say is about age fourteen or so, I realized that I'm never going to totally get to the top of the heap at Bonnie Briar because I'm the son of a member. Again, this is not *not* done, but borderline not done. So I switched over a little while to the Winged Foot Golf Club where they play the U.S. Open every few years. It's in the next town over so it was very close by. Bonnie Briar was sort of your garden variety, in those days, Protestant club. Sort of mid-tier. Not fancy like Greenwich Country Club or something. Wingfoot was more Irish and a little Italian. The Irish were just barely letting the Italians in. In those days they were considered just a bit *déclassé*. There were no Jews in either place. So I started caddying there, but they had two really long courses. It was hard work and the Irish drank a bunch, meaning plenty of balls were hit into the woods. They were pretty good athletes. It was just a way harder job there. So that lasted a couple of months, and then a friend of mine said, "Well, why don't you come down to Hampshire, which was three miles away down by the Long Island Sound. It was a Jewish club. And not only a Jewish club, but it was a socially low tier Jewish club. These guys were all up from the Garment District and had made their own money. The average guy was about five foot seven and out of shape and, at age fifty, had gotten enough money to move to Larchmont, buy a big house and join the country club. Some of them had very young wives who'd they picked out of the sewing line at their factory. The younger trophy wife. Either they had gotten a divorce or just had been so nerdy they'd never married. So they'd pick out a 25 year old seamstress. They had, many of them, these beautiful wives who I would have a lot of fun caddying for during the week. But they were smart enough, as far as I could tell, to not get off the straight and narrow too much because they had this older guy meal ticket who had gotten them out of the sweatshop to the country club in a single bound.

It was fun to work there because people were fun. They didn't drink at all. The food was good when they let you have a bite. The tips were good. The members just totally loved having a Protestant kid to kick around. The Jewish kids never caddied—in those days, they believed in a much more spoiled upbringing, so their kids didn't work. But I also learned that it always pays to

work for a different religion or ethnicity for everybody to be happy. So anyway, I'm going to get to college here. But at sixteen, I'm a happy kid. I'm playing pretty good in sports. I'm making money on the weekends. Stuff is okay.

Sophomore year in high school, I'm sixteen and it's starting to occur to me that I'm a little bored by my own family. I'm just a voracious reader, so I've read tons of books about people that took off and ran across the country on a gold rush or went to sea kind of stuff. I've gone from being very insecure to now being very secure, proud of myself. I've turned into a fairly good looking kid and I'm deciding I want to leave home. Maybe only a kid who'd had this crazy background that I did could have come to this conclusion. So I read a book about prep schools - just some boy's novel set at a prep school. And the light goes on. I'm thinking, "This is going to work." My father loves this world, and my grades are kind of crummy at high school so he'll be all for a change. I do get As in things like history and stuff that I love, and Cs in algebra and French at this point. So I barely have a B average at Mamaroneck High School, public high school. My father believes I need some shaping up. So the minute I mention prep school, he is sold. His light goes on and within a week I'm being taken around on tours of prep schools. Also, I'm not the easiest kid in the world so maybe my parents want a break from me. By this point, I have a lot of friends. I try to stay out late at night. I'm not a bad kid, but rambunctious.

02-00:41:55

Stein:

Was this during your freshman year of high school?

02-00:41:57

Warner:

This was middle of my sophomore year. Junior high is—

02-00:42:04

Stein:

Seventh and eighth grade?

02-00:42:05

Warner:

—yes, seventh, eighth, ninth. It's the beginning of 10th grade that I read this book and the light goes on. It must have been September of my sophomore year. Suddenly my father is sweeping me off to the Hill School, then to Choate. He's very inept at this. But eventually we get to Lawrenceville in New Jersey, which is a few miles from Princeton. You have to take prep school boards or something. I guess I do just well enough to get in. I can imagine someone saying, "Ralph has this interesting background. We can do this boy good," or something. Anyway, they take me. Which is a little unusual, because everybody goes there for three or four years, not two. So now I've managed to create this whole new situation for myself, which replicates the story of my life, where I have a brand new school, no friends, but I'm a lot more secure by this time.

02-00:43:08

Stein: Did you start in the middle of the year or the next year?

02-00:43:10

Warner: Yes. I started at the beginning of my junior year.

02-00:43:10

Stein: I get there three or four days early and meet a guy, Dean Pierson, who's still a friend of mine. Dean was a day boy, which is a déclassé thing to be in those days. He's back there to school early because he's a big soccer star. Anyway, he and I immediately make friends. Just a few weeks ago we spent a bunch of time with him. He adopts me in the fall of 1958 and explains stuff to me. I go out for soccer, which I've never seen before, because Dean tells me that if I go out, I'll get cut in two days, because I'm hopeless at soccer, but I'll get credit for an extra weekend kind of thing because I'd come back early for sports. I hadn't come back early for sports. I'd come back early to take a lot more tests to find out what level I'm in, most of which I flunked. So I'm moved back a level on a lot of courses and then start out. I have a roommate who's dropped in second year from California who's probably schizophrenic or something. Completely crazy kid who's not been there before. Bob Lockwood. I'm kind of tarred with Bob, who manages to flunk himself out on grades and behavior. A sweet enough guy. But he's my roommate, so everybody takes one look at him and says, "Uh-oh." So it takes me a while before people who have been there three or four years are willing to make friends with me at all because they've got all their friends already.

02-00:44:36

Stein: Is this an all boy's school?

02-00:44:37

Warner: Yes. All boys. It's based on the Harkness Table, which is a not round but sort of rounded oblong table. Each class is twelve boys and a master sitting at a table discussing stuff. It has chapel, mandatory chapel in the morning. That went back to the school formation. Of course, the school was started, like all those schools, by some Presbyterian minister in his house or something in the nineteenth century. Grew to one of the largest and prestigious prep schools in the country, because in the 1880s, some alumnus made a fortune smuggling opium from China and gave a huge grant to the school. So it's like the money that's behind a lot of these places is a little suspect.

Anyway, it's a mix. Joe DiMaggio, Jr. is in my class. Some rich Filipino guys are in my class. But it's mostly upper middle class sons and daughters who are going to go to Ivy League colleges, their parents hope.

02-00:45:39

Stein: Was there a sister school?

02-00:45:40

Warner:

No. A lot of those schools did have one. Well, there was Ms. Fine's School, which was a little distance away. So yes, maybe there was to some extent. Anyway, it was kind of the era where smart Jewish kids were just starting to be allowed to get into prep school but not too many kind of thing. So there were smart kids there who were Jewish and not Jewish, but there were also a lot of very ordinary kids of fairly wealthy families. But nevertheless, the school thought very well of itself.

So gradually I make some friends. I really like it there. I was glad to be out of the home. It's like anything. By this time, I'm secure enough that this is all an exciting new experience, it's fun. I love being called mister, I love wearing a coat and tie to school. I love, after dinner, going coffee with one of the masters (the Lawrenceville name for teachers) who lived in the big houses we lived in. Some of them lived off campus, but the ones who were the masters of an individual house and you'd go for coffee and his wife would sit there serving behind a big silver urn. Oh, my god. Talk about being a woman in those days. Her job was to basically pour the coffee.

The classes were pretty good. We'd read college history books instead of high school history books. The science was good. It was a cut above Mamaroneck, which was a pretty good high school. It had Latin and good sciences. We didn't have AP science in those days, but that's the equivalent of what we did. I got through that first year barely and I flunked French, which I'd taken in high school.

I should digress to go back for one second. Dean Pierson had introduced me to a girl. We were over in town, in Lawrenceville, a little town, walking one day and this voice rings out. It was this older woman, probably a woman in her forties—yells out, "Oh, Dean, Dean." And immediately, he's grabbed and I'm grabbed too. She has a niece is visiting from Philadelphia with her best friend. This was right at the cusp of the summer. Lawrenceville was back but they were still there for a few days or whatever. So anyway, we were dragged into the living room, fed lemonade, and introduced to our junior year girlfriends, both of us. Sue, in my case, and I forget his. They're both from the main line in Philadelphia and we think they're very cute and they think we're very cute and we immediately invite them to tea dances, which occur at Lawrenceville, on a Saturday on a football weekend we would be playing Hill or Choate or Deerfield or something. Girls would start out, say, at ten o'clock in the morning from wherever they were going to start out, New York or Philadelphia, and they would arrive around 11:30. We would meet them at the railroad station in Trenton, take a cab back to Lawrenceville, have lunch, go to the football game, and then, depending on your house's rules, we would be able to bring them back to the house and have what was called a tea dance, which would sort of last until we had to start back to the train, about 8:30 at night. Well, we had a totally negligent housemaster who paid no attention to anything and could care less. So we were just sort of left on our own. So we

would just turn off every light. Those of us who had dates. There'd be forty people in the house, but maybe only twenty of us would have dates. Some kids weren't interested.

02-00:49:29

Stein: And girls didn't come unescorted, right?

02-00:49:31

Warner: No escorts but they came in groups.

02-00:49:32

Stein: There were fifteen girls then.

02-00:49:32

Warner: Although sometimes, with Ms. Fine's School close by, it was very easy to arrange dates for a bunch of boys. It was very typical. The next year when I was more secure, I was inviting people for my friends from Larchmont. But one person who lived within fifty miles who would know a girl would get dates for all his friends who lived further away. Remember, we're sixteen year old boys. But then she would bring four of her friends and it would be sort of like blind date city kind of thing. Out of that, some people got married. People in single sex schools were so desperate.

But we would get to grope for two or three hours in the dark and we all of us in a room together. Girls would just lie flat, kiss and body rub but your hand could only touch a titty for maybe six seconds before it was brushed away, kind of batted.

02-00:50:20

Stein: By the girl.

02-00:50:21

Warner: Yes, batted. So this was like very prim fifties, late fifties by this point. Chuck Berry would be playing. This is like 1958, so we'd be listening to the Everly Brothers or Wake Up, Little Susie or something. At eight o'clock, off we would go in the cabs back to Trenton to put the girls on their trains. They'd be home at 10:30. We would get to do this maybe, at most, eight times during the year.

A couple of times, there would also be girls who would come for some glee club something or other, and there might be a dance which other students were invited to. So once in a while, you'd see another girl. But you also got weekends to leave school. So maybe you'd get two or three weekends a fall and in the spring. So in my case, I only lived two hours away, I could go home for the weekends. Junior year, I didn't really have a girlfriend in Larchmont. So it was really this girl, Sue, in Philadelphia. Dean and I get invited to the Cotillion at Christmas in Wynnewood on the main line in Philadelphia. So Dean and I have to get tuxedos. I get on the train in New York and he gets on in Princeton and we have our tuxes and we get met by the girls and we go out

to the chocolate shop or something and then we go stay at Sue's house. We go to the country club dance dressed in our tuxedo. This is a big event of Christmas holiday kind of thing.

That summer, I have a choice. I can either repeat part of junior year instead of graduating at the end of my senior year, or I can go to this kind of flunky camp in Binghamton, New York, where some Lawrenceville teachers have this long tradition of tutoring slow kids. They're right near this garden variety summer camp, but they and some other teachers from other places have summer houses up there and they support their summer by doing tutoring. So I go to this camp. Whole new experience again. I don't know anybody. It's fine, but I'm bored with the summer tutoring thing. We have nothing to do that summer on weekends and we're more like the counselors than the rest of the smaller kids in the camp. So one of my formative things was that on Saturday evenings, they would take us on a truck, the kids that were sixteen or over who were just there for the flunky thing. Most of these kids, they weren't going to go anyplace. They were just dumb, rich spoiled kids. So I'm in the middle of all this. They would take us on a truck into Binghamton Saturday night. The counselors, they were supposed to go to the movies with us. Well, the counselors all were just going to go off and get laid or get drunk or whatever. So they would just tell us, "Be back here at the truck in four hours." So we would just go to the seediest bars and drink so much we would just be so sick coming back on the truck. Oh, my god. Talk about boys.

But the camp was actually sort of fun. There was swimming and plenty of outside sports. So anyway, I made up all the courses and decided with this very nice mentor professor that I would sort of get serious about school. I was always very good at what I was good at. So my grades in history and science and stuff like that were always A+ but I wouldn't study what I didn't like. So I come back to Lawrenceville, and now I've finished French. I don't have to take that anymore, which I hate. I'd done math tutoring, as well, and it got me so far ahead that suddenly I'm getting As in math and I'm getting As in everything else. So I'm going from this kid that was getting C+ average overall, or B- at Lawrenceville and flunking a course or two, to magically, the fall of my senior year, for the first time ever, I'm a straight A student. I'm morphed into one of the smartest kids in the school overnight on this combination of lucky stuff.

I take the college boards and do well, better than a lot of my supposedly smart classmates. I go to college interviews and suddenly I'm in Princeton and it helped that I have this interesting family background I'd come to find out later. The no mother, the difficult childhood – I had this late developer profile. It's as if someone in the admissions office said he's come through all these struggles but he finally found himself just in time and look. The people who taught history and stuff like that write these incredibly glowing references. He's smart. My history professor at Lawrenceville, particularly the first year, I think wrote, "He knows more history than I do," sort of thing because I was a

history-aholic reader kind of stuff through all this. So anyway, I'm in Princeton, but here's the odd thing. I don't want to go Princeton. My friend Laurie, who comes from a cattle ranch in Colorado, and I, decide, "No, we're going to apply to Stanford." So we're going to stand up for Stanford. So suddenly we get basically called in by one of the old masters. In those days, they thought Princeton, Yale, and Harvard, and that was it. Stanford, oh, my god, are you kidding? So he just quizzes us about why we're planning to go to Stanford and very gently, very nicely, he's having this conversation with just us boys. We were at his house for coffee after supper. But he worms out of us that the big reason is girls. Princeton was still not co-ed, and secondarily, but important, Stanford has cars and sunshine. We had no interest in anything beyond that.

We'd heard Stanford was a pretty good school. Besides, we were really far away from our parents. But he just makes so much fun of us, that as we're walking back to our dorm in January in the sleet and the rain and our boots wet, Laurie looks at me and he says, "Guess we're going to Princeton." So we did.

02-00:56:21

Stein: So you ended up at Princeton?

02-00:56:23

Warner: That's right.

02-00:56:23

Stein: So we can pick up there at our next interview.

02-00:56:24

Warner: Great. Good, good.

[End of Interview]

Interview #2: July 7, 2009

Begin Audio File 3 07-07-2009.mp3

03-00:00:00

Stein: Okay. Today is July 7, 2009 and I'm here with Jake Warner to continue our interview. This is our second session.

03-00:00:14

Warner: Our conversation.

03-00:00:15

Stein: Our second conversation. Thank you.

03-00:00:17

Warner: You're welcome. I think I was talking about just finishing high school and getting to college and we were going to kind of start with that. I just wanted to loop back a little bit because of what was important in my life, to the fact that I forgot falling in love with my first kind of luminous girlfriend, who turns out to be my girlfriend for quite a while, and actually, my wife. I met her in the fall of my senior year at Lawrenceville, senior in high school, on a double date. In my case, I lived in Larchmont, north of New York City, so that was about two hours from Princeton. I had called a Larchmont friend, because all my friends needed dates. The person I was kind of relying on was not my girlfriend. She was just a girl who was a friend. So she was going to get my friends dates, and I was going to get her a date with one of my friends. Anyway, I was between girlfriends.

So up show four girls for me and my best friend, Laurie Lasater, and two other guys. It's an afternoon tea dance, that kind of thing. We talked about, "Oh, these girls are going to show up, you're going to have lunch, go to a football game, if you're lucky, make out for a little while and they're going to go home." So I get this very lovely dark-haired vivacious young woman as my date, whose name I don't remember, and Laurie gets Jean Allen, who I immediately am smitten with, and fortunately, he's equally smitten with my date. So during the course of the day, we switch. Jean and I, it was just like this sort of happy thing. She was only a sophomore in high school. I was a senior. We just had this like pair bonding experience that a lot of people have in high school, but probably most people don't since their experience is more with groups or friends. Most of my three kids got through high school without ever really being madly in love, head over heels in love. But by Christmas that year, Jean and I were just like totally inseparable and stayed inseparable pretty much all the way through. So now we'll kind of fast forward to the next fall.

03-00:02:45

Stein: Can I ask you where she was living when you met her?

03-00:02:47

Warner: She was living in Larchmont, because it was a friend at home that got us the dates. She actually lived about a mile from where I lived. I'd never met her.

She was the sort of gorgeous sophomore but kind of quiet and not maybe in the sort of cheerleader super social mix. So for whatever reasons, having a boyfriend who was a couple of years older who was going to a prep school seemed like okay with her. But I could come home. Often, I wasn't that far away. So it was Christmas vacation. By the end of Christmas vacation, I think both of us were just so happy to have solved this problem, to just have somebody that was desirable to be in love with. It maybe took us until the summer of that year, when I was going to Princeton and she was going to be a junior, to actually have sex. Which was a little unusual in those days. It was before the pill and people had such, especially women, constrictions. Just no, no, no's. So it was considered to be okay for people to take most of their clothes off, but it wasn't okay to have sex. Which isn't to say that people didn't. But nevertheless, I think both of us felt really adult and kind of more complete. Certainly when I got to Princeton, there probably wasn't one person out of twenty that had a real relationship with a young woman in that sense. So that always was like that. It always made me feel confident and happy.

It was interesting. As we got more involved, you would have thought maybe our parents would have started, or her parents particularly, kind of thrown up barriers a little bit or made it a little tougher for us. But somehow or other, they didn't. It was atypical, especially of my parents. I think maybe my mother got a little hysterical the first time she found a condom wrapper in my jeans when she was washing my clothes. But basically, I think that Jean and I dominated the debate. We were so much in love with each other that nobody could step in our way, so they chose not to. Our parents became quite good friends and hung out.

03-00:05:15

Stein:

And you spent a lot of time with her family and vice versa?

03-00:05:16

Warner:

Yes. I spent a huge amount. I just was at her house all the time for the next three or four years, I would come home on vacation, throw off my school stuff and head for her house. Basically, we'd come to my house sometimes but basically almost lived at her house when we weren't out conspiring someplace to be by ourselves.

Anyway, I get to Princeton. I don't want to be there. I really wanted to go to the West Coast. There's all this stuff, in my head, certainly looking back. My grandfather had really made this mistake, went in the wrong direction, and I was meant to have been born in California and grown up there and gone to the University of California or Stanford. Of course, I had never been there at that point. I just sort of knew this. So I got to Princeton and part of me was excited about being a freshman in college, but part of me didn't want to be there. But I also had this sort of odd experience of the Lawrenceville class. In those days, twenty-five people went to Princeton. I had only been at Lawrenceville for

two years, so I wasn't in with the total in group, but I still kind of knew everybody.

03-00:06:28

Stein: That's out of a grade of how many people?

03-00:06:30

Warner: Oh, I don't know. Maybe Princeton was seven or eight hundred.

03-00:06:32

Stein: And Lawrenceville?

03-00:06:32

Warner: Oh, out of Lawrenceville.

03-00:06:34

Stein: Of Lawrenceville.

03-00:06:35

Warner: Yes, maybe 175.

03-00:06:36

Stein: Oh, wow, that's huge.

03-00:06:37

Warner: I know. Huge. My first year roommate was Dean Pierson, the first guy I'd met at Lawrenceville. We obviously knew each other already, so it wasn't like going to college and having this experience that most people have of who's your roommate, "Oh, my god, am I going to hate this person?" Then oddly, we were in this strange dorm that was way the hell away from where most of the freshmen were. There wasn't an absolute rule, but most of the freshmen were in a couple of quads or dorms, leafy, ivy colored quads at Princeton. But we were halfway across the campus in an old funky dorm with some upper class guys who were maybe socially slight misfits. Nice. I got to be really good friends with them. But what were we doing off here in this very uncool dorm with sort of uncool upper classmen, at least by the way Princeton judged cool? And I found out later it was because Dean was on scholarship.

03-00:07:36

Stein: Oh, wow.

03-00:07:37

Warner: So in those days, Princeton even discriminated against what dorm you were in based on—

03-00:07:42

Stein: Wow.

03-00:07:42

Warner: Yes. Isn't that amazing?

03-00:07:43

Stein: Yes.

03-00:07:44

Warner: Yes. So we were just in this slightly rattier dorm because that's where you put scholarship students. Since I had chosen to be Dean's roommate—I knew none of this—I was there, too. So I wasn't in the place where all the other freshmen were, which was interesting, because the culture at that time was to be kind of drunk about two-thirds of the time. Alcohol was everywhere, and especially for people who came from prep school kinds of backgrounds.

03-00:08:14

Stein: Was that not the case at prep school?

03-00:08:15

Warner: Well, at prep school, they pretty well prevented you. But it certainly was the case during vacations from prep school. We all had forged IDs, and so one of the things that we would tend to do was go to New York on the way home, get drunk, go to burlesque shows in the village. Do all these things that pain-in-the-butt seventeen year old boys thought was cool.

So here I was at Princeton. I was a little socially lazy in the sense I knew people. I didn't have to go out and make a super lot of new friends. But I kind of felt alienated by this alcohol culture. Hey, I liked to get drunk on the weekends sometimes and party and stuff, but this idea that you'd start drinking on Wednesday night and keep drinking all the way until Sunday, when you'd just be sick for a couple of days and then start doing it again. Sort of disgusting, actually.

1959 was the first year that there were more high school students at Princeton than prep school students. Unbelievable, right? This is the first time.

I later found out that there had been this whole conspiracy of professors led by the president of Harvard, Conant, who had been there for about twenty years. The SAT tests had really been part of this. Up until, say, the Second World War or a little bit after, it had all just been on sending in your application and getting selected. So the old WASP establishment totally dominated Ivy League colleges. It was eighty or ninety percent WASPs, up from New England Puritan kind of culture. And your chances of getting into Princeton being Jewish, say, in the thirties, would have been one in a thousand.

After the Second World War, the Ivy's recruited good faculty but second rate students or average students. So the faculty was demanding smarter students at all these colleges. Led by Conant, the presidents had gotten together—this is all the background—and had actually invented the SAT. They had kind of a long tail theory that eventually, if they could do a national test, the real meritocracy would rise. It would be really more like Jefferson's vision of America. It took quite a while for that to really happen. I think by the mid-

fifties or so, all the Ivy League schools had adopted the SAT. Actually, out on the West Coast, it wasn't until the sixties. And suddenly, there was a whole academic standard. And also, faculty started like recruiting, especially in the sciences and physics. I had a friend, Burt Weiss, Eugene Wigner, who had won a Nobel Prize in physics and had been a younger disciple of Einstein, who had been at the Institute for Advanced Studies at Princeton for many years. Wigner actually came to his house to recruit him. They were that desperate to have really smart people that could do math or science. But at the same time, okay, here are all the prep schools, the Lawrencevilles, the Deerfields, the Andovers, still feeding Princeton people. So my year was the first year that it tipped to the high school.

03-00:12:01

Stein:

And when you say high school, do you mean public school or—

03-00:12:01

Warner:

Public high schools.

03-00:12:02

Stein:

—just any of these nonboarding schools?

03-00:12:03

Warner:

Yes. Any nonboarding public high school, as opposed to private boarding school. I'm sure there were country day schools and things in the middle. So when I got there, I was pretty confident that prep school kids, we were the smart kids. After all, we had been chosen to go to these elite schools. We had sat around little tables in small groups. And, in fact, for the first six months, we were far enough ahead, as a group, that we probably dominated. But by the end of the first year, and this is my experience the first year at Princeton, it was just clear the high school kids were smarter as a whole, worked harder, were more ambitious. Seeing things like this was a kind of a knack that I had started developing of looking at stuff in a slightly contrarian kind of way and trying to see what was really going on. But the faculty at Princeton was great. The faculty was terrific. I was going to major in history, but I had to take an obligatory science course, so I, of course, chose rocks for jocks, which is what we called geology. But nevertheless, the theory of continental drift had just been put together in the late fifties by one of the prominent people who was from the Princeton geology department. So, oh, my god, they were so excited. They had just changed the history of the world, even religious views. It was like Copernicus or something. My god, the continents had drifted. God hadn't put them all in one place. Princeton was in charge of a project that everybody's forgotten now called the Mo Hole.

03-00:13:42

Stein:

Mo Hole?

03-00:13:43

Warner:

Mo Hole. M-O Hole. It was to drill through the crust of the earth. They had figured out, somehow or other, that out in the mid Pacific, the crust was the

thinnest, and so they were actually going to drill through. There was lots of scientific controversy at the time, because fundamentalists and other people believed that the core of the earth would leak out.

The history department was amazing. There was a guy named Eric Goldman who just would pack the students in. He wrote a book called *Rendezvous with Destiny*, which was very famous at the time. Later, he was Lyndon Johnson's first—in the White House as his culture czar, which was a hilarious oxymoron if you remember Lyndon Johnson holding up the dogs by the ears and lifting his shirt to show off his scar.

03-00:14:33

Stein:

What year did you start at Princeton?

03-00:14:36

Warner:

I started 1959. So looking back, the thing that I kind of regret is being a little lazy about joining things and participating in things. I'd always done sports as a kid growing up, so I had avoided theater kids and the newspaper kids like in junior high, I always thought that those kids were too nerdy. So I got to Princeton, I wasn't good enough to do sports anymore and went out to do debating or something, but debating was fifty years out of fashion. So I just got caught up in these wonderful classes and didn't do much else. Unlike almost anybody I knew, I read all the books. I would take English classes or literature classes, and oh, the assignment for the week would be 900 pages of Dostoevsky. I'd read it. I looked up at the end of the year and said, "I should have gone out for the newspaper or something," because I would have known more people instead of being kind of just curled up with my books all day being a slight bit of a loner, which was easy to do when you knew a lot of people to start with, because you had enough social connections that you weren't lonely. Plus, I had a girlfriend who I either went home to see every few weekends or she came down to Princeton. It was like, "Oh, my god, I'm happy."

So it was an interesting time. The end of the fifties, the Cold War is still on, the whole sensibility. You're just moving into the Nixon-Kennedy presidential race where they're really arguing about who's going to be tougher on Russia. Sputnik and the fact that the Russians put somebody in space before we did just completely had shocked the whole country into, "Oh, my god, we actually have a stupid educational system." So there were just these reverberations across the whole country of improving math and science.

03-00:16:42

Stein:

Did the Cold War affect your life as a kid, too? A lot of historians talk about the Cold War dominating the earlier fifties.

03-00:16:48

Warner:

I know. It's really common to read stuff about every kid who grew up in the shadow of the bomb was different than every kid who didn't. I had no sense of

that particularly. Yes, there were loads and loads of articles. It was a big shock as a tiny kid when Russia got the atom bomb soon after the war, and then the hydrogen bomb soon after that, because in a sense, American popular culture had preached that they were dumber than we are and they had a failed system because they were Reds. As a result, every time they did something that was smart, our country just went into kind of apoplexy because, “Better red than dead,” was the sensibility of Eisenhower’s America kind of thing. Actually, the first few years under Kennedy, as well. Kennedy’s thought of as a great liberalizer now, but he beat Nixon on claiming that Eisenhower’s defense policy was too weak kind of thing and then there was the Bay of Pigs and Vietnam and a few other kinds of things.

So by sophomore year at Princeton, I was getting a little bored, and instead of doing a whole lot of activities, I went and got a job, which was really kind of atypical, at the Tax Institute of America off campus. It was just a few afternoons a week. So when I wasn’t reading books and doing that, I went out and worked with these four women in this office who, themselves, were real microcosms because the woman who ran it, Mabel Walker, had gotten a PhD from Penn or something in the twenties and had been a professor for a long time but set up this little mini-think tank in Princeton on tax policy stuff. So that was an interesting woman pioneer.

03-00:18:42

Stein:

Did you just have extra time?

03-00:18:45

Warner:

Yes. Since I wasn’t getting drunk. Oh, I can tell you one story. The first year, I decided, “Well, okay, I need to bond a little bit more with the people who play cards and get drunk.” So I go over and decide—typically I usually like to go to bed early—I will stay up and play poker with these guys. There were poker games at Princeton either in the dorms the first two years, or the clubs, which I’ll get to in a minute, every night, all the time.

Playing cards and being drunk. Remember, girls were only around on the weekends. Most guys had no particular clue how to deal with women whatsoever. They came often from far away. The high school kids had often been maybe a little nerdy into get to Princeton in the first place. The prep school kids had been in all male schools already. So there were certainly people who were somewhat successful with women at the time, but most people weren’t. So their outlet was to kind of get drunk and do male bonding. Well, I’d already figured out how to have a really lovely girlfriend and thought that male bonding was not for me unless you’re playing a game or doing some kind of sport thing. I always had plenty of guy friends when I was a kid, but once I hit puberty, well girls were more fun.

So anyway, I’m over in this freshmen dorm, somebody’s room. Card games don’t start until eleven o’clock at night. We start playing poker, and by maybe

midnight, or maybe 12:30, I'm ahead thirty bucks, which is maybe 300 bucks now. By then I had had five beers and want to quit and go to bed. It's 12:30, quarter to one. "No, you can't do that. That's against the ethic of the whole thing. You can't quit when you're ahead. You can't quit 'til the other guy's winning," I'm told by the others. So gradually, I'm playing three or four guys but this one guy is just losing everything and I'm winning everything. So gradually, the other people sort of stop, but this is like desperate between me and the loser guy. He will not let me go to bed. He will not let me stop. Every time I want to stop, it's, "You're violating the rules."

03-00:21:04

Stein:

The code.

03-00:21:06

Warner:

So by four o'clock in the morning, I've now won \$300. And \$300 is somewhere between maybe two and three thousand bucks in today's money. And this guy is basically crying. So finally, it's maybe getting light or almost getting light and then we stop and then he says, "Well, I can't pay you. Will you forgive me?" I was so mad at the whole thing and having to stay up. I said, "No, you've got to pay me. You made me stay here for four hours. I didn't care about any of this." So gradually he did. He actually paid me. Had to write home and get money from his parents like it was a gambling debt in the movies or something. I've never played cards for money again. Never. Never played another card game at Princeton. It just seemed to me like the most boring thing in the world to do unless you risked more than you could afford to lose, and why would you want to? Isn't it better to read a book or something? So anyway, that was kind of a little window on Princeton.

A bunch of my friends worked at the radio station, which was only listened to by people at Princeton. Only played bad rock and roll for kind of drunk students.

03-00:22:19

Stein:

Was there a division on campus between the public high school kids and the prep school kids?

03-00:22:23

Warner:

Definitely. A lot of it was just the fact that the prep school kids knew each other already and were lazy and didn't make that much of an effort. The divide broke down a little bit as time went on because you were interested, especially if you were in a theater thing or doing any one of a number of activities. But even some campus organizations broke down a little bit by prep school and high school. Prep school kids tended to dominate like the Triangle Club, which was the theater, and it had always been this kind of revue, goofy stuff with guys dressed up as girls and doing this 1910 kind of routines that people thought were hilarious. Some of them were hilarious. I think high school kids did the newspaper more or whatever. It's a pretty good sized campus, so that was kind of a big deal.

03-00:23:16

Stein: Was there also a big breakdown in terms of ethnic diversity or religion between—

03-00:23:20

Warner: This was another thing that just made me dislike Princeton, dislike being there. At another level, of course, “Hey, I’m just a college student. It’s fine.” But when you thought about it, yes, there was one black kid in our class. There were, of course, no women. And they never thought there would be at that point. It was another ten years before the first woman. So it was an all male heavily WASP dominated. Maybe five percent of the class were Jewish, and probably if you’d done the admissions fairly, it would have been twenty percent or something. But there were all these preferences for prep school admissions, alumni preference and so on. Today, it’s still easier to get in if you’re the kid of an alumnus. But in those days, it was ridiculous. The SAT test and the fact that they were letting in way more high school kids had just begun to create more of a meritocracy meaning a few less alumni kids were being accepted. So they were angry, angry, angry. Every alumni news or weekly—believe it or not, Princeton had an alumni weekly in those days, a magazine—every one had thirty letters from alumni whose son hadn’t gotten in and they often had veiled religious comments, on how we’d changed this place and it’s not like it should be.

03-00:24:49

Stein: This is when their children didn’t get in?

03-00:24:51

Warner: Yes. Basically, the big divide was letting in Irish kids, Italian kids, particularly Jewish kids, and particularly in the sciences. Hey, too bad, those kids are a little smarter, Princeton said, but the alumni didn’t buy it.

03-00:25:06

Stein: Yes. Was this something you were aware of at the time?

03-00:25:08

Warner: Yes. I was very much aware of it. I was very much aware of the prep school/high school divide and very much on the side of the high school kids. They were smarter in our classes. The prep school mentality at Princeton was you get in, you take easy courses, maybe partially because you don’t think you’re bright enough to take hard courses. You’re a little afraid. So you don’t want to prove to yourself that you aren’t smart. Partially because you can get drunk a lot and do other stuff. So you took poli-sci, psychology, maybe easier history courses. You did liberal arts, English, and you could get Cs with pretty much ease. If you took a history text—obviously we read original source stuff, too—but if you read kind of the first paragraph and the last paragraph of each chapter in the textbook and got some kind of a study aid kind of summary with all the lists of key facts and concepts you could get through, they didn’t flunk anybody out. You could get Cs. So people who weren’t very bright and didn’t work very hard graduated.

03-00:26:12

Stein:

Were people happy with Cs? I know this is pre-grade inflation.

03-00:26:17

Warner:

Yes. A lot of these people seemed to be. There were a fair number of people, first of all, who came from money. I always remember, flashing forward a little bit, going back to my tenth reunion, which is only because my father wanted me to. They had some sort of income breakdown of like how many millionaires there were already. It was like ten percent of the class were millionaires. But as somebody joked, well, twenty percent were millionaires when they got there. How'd they lose so much money?

So a lot of people were going to go into banking. Not even like investment banking later, where you had to be smart enough to steal a lot of money. This was like traditional banking. You borrow money at three percent, you lend it at six percent, and you go play golf at three o'clock kind of banking. People worked a little bit more who wanted to go to a good law school. Certainly the pre-med side—there were a fair number of people who were going to be doctors—but those were mostly high school kids. I definitely knew a couple of prep school kids who became doctors, but, hey, you had to take organic chemistry to do that. It was hard work.

So yes, there were just a lot of people who wore preppy clothes. Prep school kids who took every poli-sci course there was and kind of got Cs. That was maybe about a third of the class. So here most students were saying, "Oh, I'm at one of the greatest colleges in the world," and I'm looking around and saying, "I don't think so." I just remember always thinking probably the average auto worker is just as smart as the average Princeton student. I had no way to know if that was true or not. But it was just an incredibly pretentious kind of place.

To sort of illustrate, halfway through sophomore year, you get a chance to join these eating clubs. People who just read about Princeton or Harvard or Yale from a distance believe the whole secret handshake thing. There were, I think, at that point sixteen eating clubs. Well, I should say, the first two years you ate at Commons, which were these old like eighteenth century imitation Oxford kinds of long halls that looked a little like Harry Potter movies. Little segue on that. It was the most exciting that ever happened. At Commons, you'd come into these long halls. They were fairly narrow, but with wood panels coming up three-quarters of the way on all the walls and chandeliers and stuff. You're sitting there at these big tables that seat ten or twenty. Well, on weekends you could bring your date. You could not during the week. But on Saturday, if you were having somebody down for football weekend or something, often girls would stay overnight at some place in the town, properly chaperoned, supposedly, but we had ways to get around that. But it was a ritual that you would bring your date to Commons for lunch. When a girl would walk in and start walking down the center to a table, everybody

would start banging spoons and there would be like 400 guys, like juvenile guys, banging spoons hard. If the woman happened to have fairly large breasts, people would just go bananas and bang harder.

03-00:29:40

Stein:

This is every single girl that walked in?

03-00:29:41

Warner:

Right. Every single girl. Well, even if the girl was homely as a post, everybody would tap a little bit, because it would be too insulting not to. But if she was a babe, oh, my god. These were supposed to be quasi-adults, right? But this was kind of this sort of sensibility. Anyway, so Princeton has these eating clubs. After sophomore year, up until 1955, there had been no other place to eat. If you did not join an eating club, you could go eat at the diner in town for two years. Around the mid-fifties, as they started moving into SAT tests and trying to broaden the student body, Princeton invented something called the Woodrow Wilson School which you could join, and it was like an independent eating facility actually owned by the university. The clubs all owned themselves. You paid your money to the university, but then they gave the food money to the clubs, and then you paid separate club dues over and above that. So you're only eating at the clubs junior and senior year, even though you got in sophomore year.

So this Woodrow Wilson School thing had maybe—and this is to my lifetime regret that I did not turn my back on the club system and join this—but probably at the first twenty kids who just couldn't get into clubs. But by fifty-nine, there were, here and there, just a few kids who had like a beatnik sensibility just a little bit. I had, for example, started really falling in love with southern blues, Leadbelly, Big Bill Broonzy. Just that whole scene. Josh White, I think, at the time. I didn't really understand what a song like Strange Fruit really meant. But I was sort of migrating away from the mainstream, which was just Chuck Berry and rock and roll. So I just remember thinking it would have been sort of a really cool thing to do, to not go through the Bicker system and go over and be in the Woodrow Wilson eating place with sort of the nerds and the weirdoes and poets and people. But I didn't. Five years later, seven years later, as we got into the whole hippie thing, a third of the clubs folded and the alternatives became like a big deal, as you would kind of expect. Around the country, sororities and fraternities sort of falling out of fashion.

So anyway, that was the name of the system of getting into the clubs. It was probably like a fraternity or sorority rush thing. You would form groups of about three with your friends, and then, for about a week, every evening, three people from the clubs would come around and they'd just come to your rooms all over campus and that's all anybody did. They would come and interview you. This club would come in and they would interview you for twenty minutes and they'd go away. If they liked you, they would sort of come back.

But it was this incredibly terrible system in the sense that, at the end of it, it was just as much about humiliation as about selectivity. It was kind of like why do we love these TV shows, Project Runway or something. Well, it's not about the people that win. It's the misery of the people who lose kind of thing. I'm not a smart enough sociologist to get all of that. They had this all ranked. Princeton could tell you who are the top five clubs, who are the second five clubs, who are the bad clubs, right.

03-00:33:33

Stein:

This is based on popularity or social prominence?

03-00:33:34

Warner:

Yes and based on just historic, social prominence. So for the very top ones, it really helped to be a legacy. If your grandfather and your father was an Ivy, they almost had to take you. Or to be someone big on campus. There were a couple sport's clubs. Always the best football players and basketball players. Bill Bradley was there when I was there, later a US Senator. Princeton finished fourth in the country in basketball, unbelievably in the sixties, in the NCAAs. All those people would be in one of the tighter end kind of clubs.

So anyway, the whole end of the deal was I got in the club that was just below the top five but was the intellectual club. It was lots of newspaper people and theater people. So I was happy, although I think maybe I was a little bit lucky even to get selected for that with my slightly bad attitude towards male bonding and being a slight bit of a loner.

03-00:34:37

Stein:

Were you clipped to the other two people that you signed up with?

03-00:34:41

Warner:

Well, one of them, Laurie Lasater, ended up in the same club with me. By that time, my second year, I was in a suite with six people, in one of the old dorms that would be in all the movies. You saw a college campus, especially if a movie was shot near New York, they always go down to Princeton and show Blair Arch. It was kind of right around there. Typical of the time was we had two living rooms. It was a third floor, just an entry in a fieldstone gray old ivy colored stone building. You'd go up to the third floor. There was a bathroom straight ahead. You'd turn left and there was one suite. You'd turn right, there was another suite. Each one had a living room and then two side rooms and there would be three people in each. So in a sense, one person would have a private room and the other people would have bunk beds. But, of course, like everybody else, we dedicated one room to be the bar. You had to buy your furniture in those days. We had these old couches and stuff in the living room and we had bought the obligatory little bar and we had a fridge. We all slept in rooms with bunks and stuff.

But the thing about the clubs. There were certain clubs where most of the kids were high school and most of the kids were prep school. It was very hard to be Jewish and get in even one of the middle clubs. Certainly not the top clubs.

03-00:36:12

Stein: Were they quite expensive?

03-00:36:15

Warner: Yes, a little bit. You basically paid the university what you would have paid the university for food, plus some more. They had little endowments. They weren't a whole lot more expensive, I don't think, than just having gone there the first two years.

03-00:36:29

Stein: So it didn't necessarily weed out scholarship kids?

03-00:36:30

Warner: Right. You didn't live there. You still lived in dorms. But they had these big wood paneled dining rooms kind of thing. Big living room, a pool room upstairs, a party room downstairs, a TV room. People in those days didn't mostly have TVs in the rooms. I don't know what they did in the animal house but our club kind of thing on a Sunday after breakfast, you would have teams to do *New York Times* crossword puzzles, which I'm sure was somewhat unusual. Excuse me. But the thing that always sticks in my mind then and now is that the whole thing was based on the meals, really, because they were eating clubs. Breakfast, you'd go out in the kitchen, sort of line up, and there would be only African American cooks, several cooks, and you would be able to order your breakfast. You could have poached eggs or eggs Barrington or eggs whatever you wanted and they would make it for you. At lunch and dinner, you came in and sat down at white tablecloths like a gentleman. You had to wear a coat and tie for dinner, but not for lunch, and there was an African American waiter staff wearing white coats. So these young African American guys would come on the bus from Trenton or something, put on these white coats and wait on us. Five or ten years later, you had to be lining up cafeteria style everywhere, right? But this was kind of the last gasp of what it looked like in 1910. So there, again, it was sort of offensive.

At the same time, Princeton was small enough that you kind of knew your professors. David Donald had just come there, who was later famous as being the top American Lincoln scholar for about forty years. He would invite you to dinner at his house. You were sort of encouraged to invite professors to dinner. At one level, it was this thing out of time, but at another, you'd be sitting down with the leading Russian scholar in America or something because your friend was really interested in it and dragged a couple of other people along. "I'm bringing so and so to dinner. Don't you want to come?" kind of thing. Not that that was happening every night.

I did a lot, in addition to history, American history, particularly, a lot of humanities, kind of comparative religion stuff. I got totally fascinated with reading everything in philosophy from Plato to now, at least the Western stuff. So I would actually sit there and read Aquinas or Saint Augustine or all the medieval Renaissance stuff. I think it was part of becoming an atheist. I was trying to really understand a little bit about the process of shedding God, sort of from Copernicus to Galileo to the Enlightenment was kind of the process I was going through myself, I concluded that the idea of god, at least to me, is absurd in any kind of anthropomorphic or personal way. So that was interesting.

Then, like a lot of college students, I'd kind of gone to Princeton, coming from a Republican family. My father was a lawyer in New York. I remember when I was about seven. Dewey had lost to Truman in 1948 he cried. And I never saw him more mad than when Truman fired MacArthur in the early fifties kind of thing. So it was kind of a total Eisenhower household. So to migrate to the far left in those four years and also to become a non-believer in god, was all part of it.

I don't think there was anything super more memorable than that, except that after sophomore year, I did this fruit picking trip around the US, which was really kind of influential in my life. A friend, Bob Keller, had said, "Hey, let's go do this." And I'm thinking, "I don't even know this guy this well. I'm not sure I even like this guy this well." That's an exaggeration. Bob and I had a good time and we bonded. But he wasn't one of my closest friends. But I was so taken up by this idea.

03-00:40:51

Stein:

What was the concept?

03-00:40:51

Warner:

The idea was that we'd get our exams sort of pushed up as much as we could. So we would leave the last day of May in an old car that had just been a family hand-me-down car. We would just take off and drive out to the West Coast and we would support ourselves being agricultural laborers or any kind of job we could get. We would have a couple of hundred dollars of our own money each to start with, but we would not write home and ask for money. We were just on our own. Unbelievably, our parents kind of agreed to this or did not put up any roadblocks. It was a different world in those days. Jean was a little annoyed because I was not going to be around for the whole summer and she was supposed to be faithful to me during that period of time.

So we just kind of took off and drove pretty much, stopping at national parks here and there, because neither one of us had really been out West—I think I'd been to Saint Louis once with my father on a business trip. But basically

I'd seen none of the country. So off we go and we get out to Wenatchee, Washington. This is like June 5th. We'd heard that in Wenatchee and Yakima, the central valley of Washington, there was all this fruit picking stuff and it was easy to get jobs. Who told us that, I don't know. So we go to Wenatchee and it turns out they've had all these late frosts and there's no fruit to be harvested. Come back in three weeks. The apricots and the cherries will be ready in three weeks. So we go to Seattle. We're sort of slightly running out of money. We're staying in this really cheap motel and we're trying to figure out what to do and we're reading the newspaper and they have all these huge ads. "Kids wanted. Scads of money, lots of fun, easy job. Country club life." Nobody could get away with it now. Just stupid lying ads in the middle of the classifieds. So we kind of go over there, and, of course, it's selling encyclopedias door to door. So we sign on. We take about a two hour course and they give us a bag full of the Richards Topical Encyclopedia and then all these foldouts of the extra things, the science books, the world history books. We'd typically drive down to Tacoma or someplace near a Boeing plant where there were a lot of blue collar workers, many of whom were vets or people that had come from the south during the war but have hung on to their jobs. So the people that worked in those plants riveting together planes were not highly educated, but their whole sensibility was that they could be talked into buying books because they were upwardly mobile about their kids. So your idea was to knock on the doors until you'd find somebody who really had to have a set of encyclopedias in the living room so that their kids would somehow be smarter. This was something of an American belief at the time. Then again, the whole idea was there's one in every neighborhood. There's one fool in every neighborhood, we'd been taught, and it was a very cynical kind of thing. You just had to find him. Just keep on knocking on doors. Just keep knocking on doors. You really want to just get rejected because you'll get to the next house sooner and find the neighborhood sucker. So we each managed to get in a few houses. You'd have your sample encyclopedia. The whole idea was that it was organized by topic instead of alphabetically. That was the big sale.

03-00:44:15

Stein:

Oh, wow.

03-00:44:15

Warner:

Oh, my god. Yes. Then, in addition, you'd have these couple of additional sets books. You'd have all these fold out plastic sheets. Here would be the whole picture of all the encyclopedias in their bookcase, right? Then you'd see the people looking around and you'd say, "Oh, by the way, you don't have the bookcase, do you?" And then, "Oh, you get the bookcase, too, and it's made of faux cherry wood or something." Then just that little doubt would creep in to the customer's mind and you would counter it by saying, "Oh, here's the twenty-two science books that come with it for free. Here's the sixteen books on human health." These books were all just pretty much junk. But people

signed up for whatever it was, their five hundred bucks. They just got like a living room full of crappy books.

We were working with all these sort of high school dropout misfit kids on these crews run by like forty year old drunks. Who else would do this, right?

03-00:45:15

Stein:

Did you let on to who you were?

03-00:45:17

Warner:

Yes. I don't know. I think often during that summer we just said we went to a small college in New Jersey. It was easier. Anyway, we sold a couple. After about two weeks, went back to Wenatchee and got jobs the first day. Had to go to the labor camp office. In California, there was a Bracero system of Mexican laborers. But they didn't get as far as Washington. So Washington, it was still kind of like a Tom Joad workforce, although a lot of the men were older and alcoholic. There were a lot of drifter guys who spent all their time in bars when they weren't picking. There were still some Okie family kind of things that would travel around together and follow the crops. There were some high school kids from those areas, but they tended to have the jobs in the packing sheds or the jobs weighing the stuff because they were local kids who knew the ropes. We were the out kids. So we had to actually go out in trees with bags around our necks in 102 or ninety-seven degree weather and pick, starting with apricots for a few days. I just remember that first day, working like ten hours, and you're kind of bloody from all the spikes of the trees. You made eleven dollars. I think Bob and I made eleven dollars each. I think we didn't make that much money in picking cherries, which we did for a while. We were living in these kind of cheap motels.

But the thing that really saved it was that Bob could play the guitar. He had his guitar. He knew Kingston Trio songs. He wasn't a great singer but ok. Later, he actually managed to get a few professional gigs in the Village. But he could sing well enough. I couldn't sing at all, but I knew how to mouth the songs. He was the player and I was the cute one kind of. We would go to the A&W root beer stand or something and we'd just start. And oh, my god, we were popular, especially for these kids, especially the slightly smarter kids that had a little beat influence that was starting to be everywhere and were going to be the hippies in a couple of years. It was just when folk singing was getting popular. I don't know if Dylan and Joan Baez were household words that year or the next year. But it just sort of swept the country. So if you could just do any kind of Letterman or Kingston Trio songs in some little agricultural town you were so different. Ten, twenty, thirty, fifty kids would start coming around because we'd just be playing in the parking lot, or I would be mouthing and Bob would be playing and singing. So our goal was to kind of separate out the two cutest girls who were not with—

03-00:48:06

Stein:

With the locals.

03-00:48:07

Warner:

Yes. We got really good at that and people liked us. We'd stay sometimes a couple of days in a place, then we'd just get in the car. Once we got the drill of going to the labor office or going to the farms, it was just easy to get work. They didn't have enough workers. So we could move fifty miles or whatnot. So we would often end up eleven o'clock at night with two cute girls necking under the whatever. Then we'd have to get up at 4:30. We'd go sleep at the cheap motel, but then gradually we found out how to sneak into state parks after the guy stopped taking the money. It wasn't hard. So at eleven o'clock at night, we would go find someplace to sleep. One time we couldn't find any real parks, so we slept under a water tower in a little downtown grassy area, in a little town, and woke up with two policemen pointing guns right at us because there'd been some robbery. Then they felt the car and it was cold and they listened to our story and they just let us go kind of thing. But a couple of times we met girls who knew other girls in the places we were going and they would call their friends or something and we would know people when we got there. A couple of times, they would bring us sort of home. I remember one night the parents made us sleep on the floor in the garage and they're sort of guarding the door kind of thing. So it was all pretty innocent.

By this point, we were having a great time. We were making enough money. We'd figured out how to make friends. When we got to Portland, we visited my roommate Laurie's, at Princeton, girlfriend whose father owned the biggest department store in Portland. So suddenly we've gone from sleeping in wooden shacks or in parks or in the cheapest motel working with the poorest, most miserable folks out in these orchards to having dinner at the University Club in downtown Portland, staying in this mansion, and going out to a lake to go water skiing. The only time I've ever gone water-skiing in my life. So it was an odd summer.

03-00:50:23

Stein:

Any culture shock?

03-00:50:23

Warner:

A culture shock, but it was sort of like the caddying thing before. You started getting out of that upper middle class bubble. Starting with my little weird childhood in Brooklyn, I'd never bought into upper middle class ideas as much as a lot of kids, but still, you're going to an Ivy League college and stuff. It's easy to think the world is like that. So, fascinating.

We got down to California and we were working in an orchard near Santa Rosa. By this time, it was all Mexican crews. They wouldn't give us jobs at first because they thought we were from the unions organizing. We finally got out on this crew with about fifty Mexican guys who had been brought on buses as part of this old Bracero program to work. We were doing so badly as compared to these guys, that by eleven o'clock in the morning, we had maybe eight boxes of apples each. You had to pick them big enough so they wouldn't fit through the ring. But if you took time to pull out the ring to measure, then

you couldn't pick fast enough. So the boss was always coming out and screaming at us, that our apples were too small and, we were going to get fired. Oh, my god. So anyway, by eleven o'clock, we're on par to make about four dollars for the day, at which point, one of the Mexican crew chief whistles. All these guys come pouring out of the trees, down their ladders, and come over and pour their apples into our baskets so we would have an okay day.

03-00:51:57

Stein: That's amazing.

03-00:51:58

Warner: Yes. Wasn't that amazing?

03-00:51:59

Stein: Yes.

03-00:59:59

Warner: Yes. These guys were from little tiny villages in Mexico, riding these buses with bald tires. Half the money they were making was being taken away from them by the little country store that they would take them to. Just the worst, miserable, corrupt, hard life. So they were giving apples to Princeton kids.

03-00:52:17

Stein: That's amazing. Did you speak any Spanish or did they speak any English?

03-00:52:20

Warner: No, no. Just gave us the apples. Anyway, I finished that summer visiting my cousin Gertrude Frost who lived in Laguna Beach and immediately we got there and they had some friends who had these two girls visiting from Kansas City who were just our ages. To make a long story short, my cousin had a little cocktail party for us. She is from the China family, remember. And this is a house that was probably bought on opium money. But very respectable on the cliff at Laguna Beach. So we're having martinis. We actually have some clean clothes on. I remember my cousin, who was like sixty at that point—I called her aunt, but she was my cousin—coming over to Lindsey, the young woman who I had just met two hours before, I think maybe it was the third martini, and Gertrude just saying in a very dry voice, "Dear, if you drink that, he'll have your heels up in the bushes within an hour." And so she drank it and we ended up having sex. So oh, my god, I got my girlfriend back home and I'm having this mad affair. We're just spending all of our time, all four of us, out screwing on the beach at Laguna all night. Having just this incredibly great time. You can imagine Laguna Beach in August.

So anyway, the summer ended and Bob and I went back home, I did my junior year at Princeton, and Jean started at Cornell. So she's like a freshman at Cornell, I'm at Princeton. She gets even with me by having an affair with somebody at Cornell, which probably should have just broken us up, that combination of stuff. But then we just have this big crisis in the fall of that

year and decide, “Oh, no, we’re going to pledge our love to each other more undyingly than ever, right.”

03-00:54:14

Stein: And you both came clean?

03-00:54:16

Warner: Yes, yes. We both kind of confessed, so we were even on that one. Then by the spring, as it turns out we don’t find out until the summer, she gets pregnant because we were not so good on our birth control obviously. Maybe in May, in Cornell, in the gorges. So in the middle of that summer, suddenly I’ve gone from this easy life to my beautiful girlfriend is pregnant and my parents are best friends with her parents and there’s no abortions. I’m sure some people flew someplace or other, but not for us.

03-00:54:55

Stein: It didn’t seem like an option?

03-00:54:56

Warner: No, that didn’t seem like an option. So a week later we’re married.

03-00:55:00

Stein: A week later?

03-00:55:00

Warner: Yes. Well, we just got it all together and we decided to go ahead before she got more pregnant. Well, you’re just going to have your family and stuff, and you’re not going to have your big white wedding. But hey I don’t think she minded

03-00:55:11

Stein: This is when she is nineteen? It’s her freshman year or her sophomore year?

03-00:55:14

Warner: Yes. It was after her freshman year. So I’m twenty-one that summer, she’s probably nineteen. Yes.

03-00:55:22

Stein: Was there any panic or it was just what you did?

03-00:55:24

Warner: It’s just what we did. We kind of had been together and so bonded that I don’t think either one of us thought it was a really bad thing. It was a little inconvenient but she was just really smart. Inhaled information but didn’t really seem to care about her independent career. It didn’t bother her dropping out of college or if it did it was never discussed that we would try to transfer someplace where we would both go to college. It just never came up.

03-00:55:55

Stein: Did she have to drop out? Because she got married?

03-00:55:59

Warner:

I don't know the answer to that. Could you have been pregnant and gone to Cornell at that point? Probably not, but possibly. At Princeton, you couldn't have been married at all without having to leave the school five years before. But it was okay by 1962 to live off campus and still go to the school. I couldn't afford the eating club, but they let me come and hang out. Because there was only two people in the whole class who were married and, I'm sure, in the same circumstances. So everybody felt like massively sorry for me and for us, I'm sure. A lot of people hadn't even slept with anybody. But we were happy. It was one of the happier years of my life. There was no junior year abroad then, so I'd never been able to kind of get out of there. Or there wasn't at Princeton. There was at Cal. So this was the first sort of escape into adulthood. So we had this cool little apartment, third floor walkup, we liked each other, and so we just set about having our baby.

03-00:57:04

Stein:

Wow. Okay. Let's take a little pause here because we're nearing the end of this tape.

[End of Audio File 3]

Begin Audio File 4 07-07-2009.mp3

04-00:00:00

Stein:

Okay, this is tape number four with my interview with Jake Warner. It is July 7, 2009. So we left off—

04-00:00:14

Warner:

We left off, I just had gotten married and so I'm not just this Princeton undergraduate. I'm now at least an oddity, if not slightly—well, pariah is not the right word but people are just sort of horrified by this. "Oh, my god, you're married. Oh, my god, they had to get married." So we found this apartment about three or four blocks from the campus that was a third floor walkup over a barbershop kind of thing with funny little peaked ceilings. You had to kind of bend and crawl around up in this attic. It had a teeny living room, a teeny kitchen and a bedroom. Just funky Italian family owned it who would never turn on the heat. So we had figured out how to take the ice tray out of the ice box and put it on top of the thermostat. That was the only way we could get heat. Then we would overheat the whole building trying to get warm up in our attic. Jean got a job at the university working in the admissions office, pregnant as she was.

To the extent that I was interested in Princeton, which I had never fundamentally been, and certainly by that time was sort of bored by it, this was sort of great. I was working almost half-time at the tax institute. In your senior year at Princeton in those days, probably still, you have to write this thesis which is more like a master's thesis than a typical undergraduate thesis. You only have to take three classes and you write—

04-00:01:49

Stein:

For the entire year?

04-00:01:50

Warner:

Yes. Well, three classes each semester. So you have lots of time to write. You're given a carrel like a grad student three floors underground in the big old Firestone library and you're told to write your little book, which in my case was 110 pages long and it was called the Anti-Masonic Political Party as a Social Force. This was kind of Jacksonian America. I think I lost a little bit of focus in the sense that I was working a lot and my mind was kind of wandering ahead to after graduation. But I spent a lot of time in the New York Historical Society going around finding old newspapers and diaries. Basically I was just writing my thesis, working at the tax institute, and getting ready to have a kid. Our parents lived a couple of hours away, but we had no other friends our age with kids or anybody to mentor us or talk to us.

The closest thing to a friend who was older or knew anything about this was a single woman who was about thirty who was a secretary at the tax institute. Francis Clem. Fran was this very sweet secretary who I'd been buddies with and flirted with and she'd asked me to have an affair with her the year before. I was not horrified, but just surprised since she was ten years older than me. Oh, my god. I always regretted that I didn't do this. It could have just changed my life. She was such a nice woman. She ended up, at the end of that year, going back to a little town in New Jersey and marrying a Polish guy. She had come to Princeton to try to broaden her life but she ended up, 'Hey, I don't want to be an old maid.' She was kind of like our friend and the one who was going to drive us to the hospital in the middle of the night kind of thing. She went from kind of never quite a lover into just our friend. But we didn't really know anybody who weren't my undergraduate friends who would come over and sit and look at Jean's belly, and then later, when Eddie was born, come over and go like, "Oh, my god. Thank god this didn't happen to me." So I don't know if there was anything so much memorable about that.

But I'm immediately plotting during that year to go to grad school on the West Coast. I thought all the way through Princeton that I would be a history professor. I loved history. It was easy for me. It was just like rolling off a log. I just absorbed every bit of it. I was born in forty-one. I was three or four years ahead of the Baby Boom, which is going to turn out to be the luckiest thing that ever happened to me, because the world is going to get big right behind me, but I was always a couple of years ahead. So it would have been easy to get into grad school, any grad school I wanted in history at that point. I had good recommendations from my professors and stuff. I'm quick at doing things. I would have gotten my PhD in three years, I'm sure. It would have been a snap to get a job then. People would have been just clamoring. Ten years later, it was impossible after the numbers started up.

But writing that thesis two stories underground in that carrel, which I basically enjoyed and graduated with honors. But the phone never rang and no one cared what I was doing. I just kind of saw this life unwinding before me. That I would be smart enough to be one of the—I was giving myself maybe more credit than I deserved—one of the top experts on ten years of American history. I was that smart. With my start, my energy, I could be one of the owners a decade of whatever.

04-00:05:39

Stein:

A decade.

04-00:05:39

Warner:

A decade. But that's really the way it was then. The great days of history where historians were allowed to pontificate over grand theories was over, or at least not happening then at all. It was like in psychology. Everything had become rats running around Skinner boxes kinds of things. So I think later it broadened out a little bit and there were a lot more possibilities. But I just really thought to myself, "Oh, my god. I'm going to sit here studying Thurlow Weed for the rest of my life," or someone similar. I panicked and thought, "Well, what else can I do?" Since my father was a lawyer and my grandfather was a lawyer, and this is the thing everybody does who doesn't know what the hell to do, maybe it's for me. For all those reasons, in the middle of the year, I suddenly decided I'd apply to law schools instead of to PhD programs. So I remember just going to my history professor, thinking he knew more about the world than I did, and asking him where he thought the best law school was west of the Mississippi. This is how little I knew. There was no kind of internet and very few people just decided to decamp 3,000 miles away. He was just horrified that I would go to law school and not do history. Oh, my god, he saw it much more clearly than I did. I had no fundamental particular interest in law. I always had seen my father as having a nice career, but basically working for these corporations and putting old ladies through income tax loopholes. But nevertheless, I thought, "Well, you can do something with a law degree." It's the trap of law students everywhere. "Well, I'll learn this and I'll use it for good purposes," I thought.

04-00:07:19

Stein:

Try to do good.

04-00:07:20

Warner:

Right? I'll have a meaningful life. So anyway, just a funny little thing about this was the professor says, "Cal. Cal has the best law school that you can afford. Stanford has the other one, but Cal and Stanford have the best law schools on the West Coast." And I was so ignorant about any of this, I thought Cal was UCLA. So I sent off my application to UCLA. I was confident enough that I'm only applying to one law school. "I'll get in, no problem." So I apply to UCLA and get in promptly. About March 1st, some friends come over for dinner, and that day had picked up the catalogue of UCLA law school and I read the courses, which sounded really boring. I'm looking at the title

page where the copyright is in a book and it says, “Founded 1947.” I’m kind of joking around with my friends at dinner. “Gee, I’m going to one of the top ten law schools in the country,” I’d been accepted by this point, “but it was only founded fifteen years ago. How could this be?” And they all just start roaring with laughter because Cal is not UCLA. Cal’s in Berkeley. Oh, my god, I was so embarrassed.

04-00:08:37

Stein: That’s amazing.

04-00:08:38

Warner: I was in such a panic. So I just rushed. “Oh, my god. How do I get this application? How do I get it in within a week?” which I managed to do within one day and got accepted to both.

04-00:08:47

Stein: Wow, that’s close.

04-00:08:48

Warner: So that changed my whole career right there, talking about access. So I graduate from Princeton. It was interesting in terms of just—not that this is interesting in the larger thing—but my relationship with Jean and what happened subsequently in my marriage. It was just like she’d been very passive about dropping out of Cornell. That’s fine. Having a kid. She was very passive about all of this. It didn’t seem to make any difference where I went. It was sort of an adventure. She liked that. But it wasn’t like we sat down and discussed this. If I’d have said Alaska or Hawaii or something, we would have just ended up there. So I think it took me a long time to realize that it had been mostly my imperatives that had kind of guided a lot of this relationship all the way through. Anyway, that was what it was at that—

04-00:09:44

Stein: Yes. Was Eddie born at that point?

04-00:09:45

Warner: Yes. Eddie was born prematurely in February which was just a little scary. Not really scary. He was just a little small. My next kid was really scary. It turned out Jean had two kids with me and then one with her second husband. All her babies were born early—she just was somebody who had babies early. So yes, Eddie was fine and he was born in February. We went home, stayed with my parents that summer. I was still working at the golf course because I could make more money doing that than anything else. That’s really something. I graduated from college, I’m still caddying, but I couldn’t figure out another way to do better—because I could do two loops a day and make like twenty-five bucks or thirty bucks. And I was living at home, so you added that up. Thirty bucks then was like 150. So it was money. Bought an old car from some garage store guy, an old Plymouth station wagon, loaded everybody in, and headed off to California to go to—

04-00:10:46

Stein: Sorry to interrupt. But was it, when you were having a kid, a difficult decision to go to school for longer as opposed to just getting a job to try to support your family?

04-00:10:55

Warner: No. In my family, you wouldn't just graduate from college. You would go to grad school. I could have worked for a little while first, but during that last college year, my father was kind enough to pay for Princeton. So all the money that Jean was making until the baby was born, and then after that, she'd type papers for students, all the money I was making at the Tax Institute, we were just basically saving.

04-00:11:17

Stein: Okay, so you guys were fine.

04-00:11:18

Warner: Yes. We had some money. I can talk about being a new father and all that. The main thing I remember about that year was, oddly, the Bay of Pigs. For a couple of days there, it was sort of amazing, where the Russian ships were, you've seen the movies, sailing to Cuba. Kennedy had told them to stop. Were they going to stop? Were we going to really have a nuclear war? And not only were you pretty much terrified for yourself and your loved ones, but about to have a kid. I can't remember right now whether Eddie had just been born or was just about to be born. So that was like just one of those moments. Part of it was because it was sort of a buildup. It wasn't like an earthquake or something where it's over before. The world just kind of stopped and got really scary. That was really the big nuclear scare.

So anyway, off we are in the fall of 1963, and we arrive in Berkeley, California. Oh, my god, I just took one look at this campus and thought, "Yes. Everything I knew before was right. Look, this is not just a bunch of boring guys in rainy New Jersey pretending to be smart. This is beautiful. Look at this campus." California had been so far ahead in terms of a state university system and by that time Clark Kerr had built seven of the nine campuses, Cal being the flagship. There's all these beautiful women walking around everywhere. Everything I knew in Lawrenceville was right and I felt like four years interrupted.

04-00:13:10

Stein: Had you come to Berkeley when you were on your fruit picking summer?

04-00:13:13

Warner: Never really had come to Berkeley. I had come to San Francisco, but I hadn't seen it because of heavy fog. It was the first time I was ever in Berkeley. Passed through the Bay Area for about two days. We didn't have enough money to stay in San Francisco, so we sort of went from Santa Rose to Yosemite and just drove over the Golden Gate Bridge in the fog two years before.

So here I am and get to Boalt and it's just so much the reverse of Princeton. Boalt has the stupid faculty. How could this be a top ten law school with these sort of ordinary humdrum people just kind of reading their notes, teaching law. This was true everywhere at the time. Teaching law exactly like it had been taught in the twenties when they invented the casebook method. Just reading endless fat books full of court cases, each one to get a half of a little point, that if somebody had just told you the point, you would have been done with it. So this story will unwind, because I later get to have something to do with legal education.

But Jean and I get an apartment. We tried to get into student housing in the university village, but couldn't. So we had to rent an apartment, eighty dollars a month over by Fenton's Creamery in the Piedmont section of Oakland. Not quite in Piedmont itself. Off Piedmont Avenue. And I'm going to law school. Well, immediately, I get sick. It's the oddest thing. I just feel like unbelievably miserably sick and end up having mono, it turns out. Sort of struggling through this fall where I'm kind of excited to be here, excited about a lot of stuff, but I'm just feeling shitty all the time. But at the same time, as I said, the faculty is very underwhelming. The students are way smarter than Princeton on a whole because—

04-00:15:07

Stein:

Were they mostly California kids?

04-00:15:09

Warner:

Yes, a lot of California kids. But it was much more a meritocracy here. A lot of people were in their late twenties or mid-twenties, had done ROTC, had gotten married. They not only were pretty smart, but they were very determined. The top third of Princeton was probably just as smart as the top third of Boalt, but overall, the student body was much more determined and ambitious, hard working, I think on the whole because the bottom third was smarter. So it was more competitive. I had graduated in the top ten percent at Princeton without really feeling like I did much but read the books, which was really nice now, because I got my out of state tuition waived based on my top college grades, so law school was free. I came here to law school for free.

04-00:15:56

Stein:

Because you were in the top ten percent?

04-00:15:57

Warner:

Yes. In fact, it was even funny, because at Princeton, I was really only in the top eleven percent for my four years, but when I came here, somebody said, "Well, I think Cal just looks at the last two years," and by junior year I didn't have French at Princeton. So I went down to Sproul Hall, proved I had been in the top ten percent at Princeton my last two years and they gave me back the tuition I had paid.

04-00:16:11

Stein: That's amazing.

04-00:16:11

Warner: I know. I just went down to Sproul Hall and I said, "Could you take another look at whether I was in the top ten percent or not?" And they said, "Oh, yes. You were in the top seven percent, the way we look at it." Cal still wanted people to come from out of state.

04-00:16:27

Stein: Right. They were still building.

04-00:16:27

Warner: And later, of course, all that changed. But it had been this tradition that had apparently gone back many years. The University of California still thought, as a matter of state policy, that getting the smartest people to come to the state from around the country, and so that was just one of their little criteria. Then you were a state resident. This was before the Free Speech Movement, before all that stuff happened, so they liked students. And Cal was free. If you got into Cal as a state resident, it was free. One reason why Boalt was so good was it was free, as opposed to Stanford down the road. Stanford had better professors and worse students in law school, for sure. Probably in undergrad, maybe, too.

04-00:17:02

Stein: That's interesting.

04-00:17:04

Warner: But anyway, I'm going to law school, studying away. We eventually get into university village. I get the job as the student resident at night, going around cleaning up emergencies when water heaters would blow up in the middle of the night. Because these were the old barracks from the Second World War.

04-00:17:30

Stein: Is that what still exists today?

04-00:17:31

Warner: Yes, it was war housing. From downtown Oakland almost or from East Oakland all the way through Richmond was nothing but barracks. They even had taken a New York subway that had been mothballed, an elevated line, and run it from Oakland to Richmond. After the war, most of that housing got torn down. Here and there in Oakland and Richmond, there's still a little bit of it in public housing. But the university, believe it or not, in the thirties had their polo field. The federal government came in and promised that they would restore the polo field after the war—all these people were working in the shipyards, they turned Rosie the Riveter kind of thing. So anyway, they started to do that, and then all of a sudden, Cal, I guess, in forty-six, or so I've heard, said, "Wait a minute. No, we don't want polo anymore. Let's house grad students down there." So by the time I got there, they were still just all the old buildings that had been the barracks or the housing for the workers,

which were these little tiny apartments. The living room would be ten by twelve and the bedroom had enough room for one bed and one dresser kind of thing. Teeny little kitchen. But it was forty-two dollars a month when we moved in and I was making more than that getting the student residence job and working during the summer.

I guess my main insight into law school, as I stayed there for a while, was seeing that Boalt was basically a factory for corporate American to turn out people that were going to work in white shoe law firms on the West Coast, very similar to Princeton, only I thought it was worse at Boalt. There were eight women in my class. Well, that was an improvement over Princeton. Hey, this was a co-ed university. Co-ed's an old fashioned word, I guess. Half the people in the state were women. There was one African American person in my class despite being this public law school, and no Latinos. So this was just offensive, especially since the year I got here, the FSM started, the whole Free Speech Movement.

Suddenly, America just started almost changing overnight in terms of what was to come in the next ten years. If I'd gone to Yale or someplace else on the East Coast, I probably would have missed the whole thing. But kind of walking down the hill from law school at lunchtimes and watching the demonstrations and watching the university react and eventually call in the Oakland cops to beat people up. Eight hundred students were hauled off to Santa Rita. I wasn't hauled off to Santa Rita but I got very radicalized by what happened, as a lot of people did. There were more people from the sororities and fraternities throwing eggs at the FSM people. Now, everybody thinks it was an all-student uprising, we were all there. But probably most students in the beginning of it were on the other side. Your Mario Savio's, your Bettina Aptheker's, were mostly East Coast kind of New York City kids who were red diaper baby kind of kids who led this.

But also, you started really asking questions in your mind about what's going on in this law school. Why are these courses so bad? Why is all this rote learning going on and where are all these people going? And then again, who's here and why? Interestingly, there was a Law Students for Civil Rights organization or some similar title that were doing research for lawyers down south. So here we were, all these white kids, on a volunteer basis, doing research on these questions that would be filtered out to us from southern lawyers, because there were zillions of Constitutional dimension cases going on all the time. So we were, in a sense, doing this civil rights research in an almost all white, all male law school. This was, in some ways, worse than Princeton because here we are in California.

So about halfway through my second year, I'm doing fine, living in the university village, Jean and I playing bridge on Friday night with other people. Because we were the married students. I think gradually it was dawning on us that we weren't as happy as we were in Princeton. We weren't sort of unusual.

We were now kind of boring. We had a second kid—who knows why, except I'm delighted with her, she was and is a great kid—who was born like maybe three pounds eight ounces at a time when that was really, really scary. The Kennedy baby had just died a couple of months before. I remember going over to the U.C. hospital and they said, "Well, she's having at least little problem breathing. It's like fifty/fifty in the first twenty-four hours. If she lives past that, she'll be okay but we can't do anything because of the lungs." Now there's loads of things they can do. The whole thing had been just a stroke of luck for both of us, because UC offered pretty much free birth if you did it over in the city and you let interns do it. They had this program that a doctor that would be sort of presiding but you signed up for this intern thing. I remember I had to go give a lot of blood as part of this so when Andy was born early the top doctors came in. There was this whole thing. So we were always lucky on this stuff and we always had money, but yet we had this sort of boring life in the university village. We had this second kid, that was great.

But in the midst of that, in maybe the middle of early spring of my second year, I decided, "This law school is so screwed up. I'm going to do something about it." So the first time in my life I decide I'm going to run for the president of the student association, which, oddly, had a bit of power because it had money. The students had somehow moved in the first vending machines years before, and by tradition - there was no cafeteria in the law school, just about ten vending machines - all that money went to the student association. So you were going to have like 10,000 bucks to spend or whatever on stuff. A little money was given to the law wives so they could have some functions. But most of it had been spent on attracting sorority girls to the law school for various parties or things. Since it was almost all male, sorority girls would show up every night and study and try to troll for husbands or whatever. It was so much the fifties.

But Cal was on fire with all the FSM stuff. You've seen the marches and stuff. But now you can go to the Free Speech Café on the Cal campus and see all the pictures and the little guides go around and tell everybody how cool this was, this was the birthplace of Free Speech. Well, of course, the birthplace was they were trying to kill us. I wasn't one of the ones that was per se being killed, but I was certainly part of it. Running for the president of the law school, I was the first person to have anything like a radical ticket ever. So it was all about sort of interrupting the machine of law school education as much as we could, changing it, but also recruiting African Americans and women. Believe it or not, there were three or four big San Francisco law firms that wouldn't hire Jews. So part of my plank was to ban them from the law school, which was considered very, "Oh, my god," by the dean and stuff." Just, "Oh, my god, you're not going to ban so and so, so and so and so and so." There were six or seven people who started, but once it got narrowed down, I was basically running against a guy from Dartmouth who wore pressed pants and button up shirts who wanted to spend more money on sorority girls. By that time, I was wearing jeans and t-shirts, of course, and

growing sideburns. So we come down and I'm going and just giving these angry speeches. You went around to all nine sections in the law school. So, in a sense, the third year students who weren't going to be there voted and you were running as a second year student and there were people behind you. So the way it came down, and this was just the cultural divide at Cal at that point, was I think I lost the third year class, the oldest kids who were basically fifties kids. A lot of law students were older, middle or later twenties. I lost the vote in that class like seventy to thirty. I lost my own class by like seven votes, but basically divided it, and then I won almost every vote in the first year class. Three years later, of course, everybody was tie-died in the law school.

04-00:26:54

Stein:

And this really felt like a generational divide?

04-00:26:57

Warner:

Oh, my god, it felt like a major divide.

:

So I won the election. And, of course, some of it was just popularity. But yes, I was sort of the first sixties person and he was the last fifties person, and I think I only won maybe by ten votes or something like that out of a law school of 600 or something. So it was dramatic. So you would have thought, "Oh, well, my life was going to go really well and be exciting." But as it happened, Andy was born, my second kid was born, in August between my first year and my second year. So by the winter, just about the time I'm getting elected head of the student association, I suddenly discover Jean's having an affair with my best friend who lives two apartments over. She had just apparently gotten depressed after Andy was born. It's sort of like my mother all over again kind of thing. Mike's wife was off with his kids and I was preoccupied. All of a sudden, they just sort of fall madly in love, have a crush. This all lasts two weeks. It all just blows up and everybody's chagrined and miserable and Mike and I hardly talk to each other again.

At one level, this is typical of my life, I'm doing all these exciting things over here and kind of crashing and burning over there. I'm not handling it very well. Handling it sort of badly in the sense that I had always been the one, of the two of us, who was more the center of the relationship - a little bit more the loved and she was a little bit more the lover. So now it was kind of reversed around and I just needed her to be somehow different and to be a lot less passive than she was, a lot more contrite, a lot more, "Oh, my god, I totally love you, my god." And she was just none of those things. She just was, I don't know, whether still a little depressed or just maybe even, as it turned out, tired of the relationship or what. So basically stuff at home is falling totally apart. So okay, we've got these kids, we're not going to get a divorce. So we're just kind of living, not quite in an armed camp, exactly, but not very happily. The kids seem totally happy.

We're just young. We're having sex every two days kind of thing. It's not like we're isolated. It's just whatever that bond was that started had just sort of been broken and I just kept wanting it back and she kept not being able to give it back. So that was okay. Remember, I was elected president that Spring so I had some affirmative stuff going on. I wasn't yet doing it. That was going to happen next fall.

04-00:30:26

Stein:

Next fall.

04-00:30:27

Warner:

Yes, next fall. That summer, I got a job back in Washington, D.C. We drove back. Just a law intern job. Her parents had moved from Larchmont, by coincidence, to Baltimore, so we actually lived with them. I took the train from Baltimore to Washington every day. We were just miserable. Oh, my god, we were so miserable. I think her parents were miserable, too. They got divorced soon after that. But it was just such a miserable summer. Because, again, I was doing all this fun stuff in Washington, but at home we barely talked.

So we came back in the Fall. So now all this stuff's going on at Boalt and we, in fact, immediately ban the law firms, or set out to. You can imagine that the dean, the assistant dean, all these people who were totally—had accepted this and gone along with it in the old days—could not stand up to us, but at the same time, were trying to not ban fancy firms that gave money to Boalt. They wanted to avoid the crisis. "Okay, we're just crisis management here. We're going to make this go away or something." So suddenly, we get a call. Dave Rush, who was the vice-president, and I, we get a call from a lawyer named Lazar in San Francisco who had graduated from Boalt in the thirties and was a partner in one of the largest Jewish law firms in the city. We get invited to lunch at Jack's in San Francisco. So we go over there, he buys us martinis. Jack's was the in lawyer, politician place in the city. Sam explains to us why we're doing a bad thing. There had been all this accommodation that had been going on. "You don't know how bad it was for Jews in the twenties and thirties and things have gotten—we're working this and it's been gradual assimilation and we're just doing fine and you guys are just going to screw up the whole thing. You're like throwing a wrench." And Dave and I just thought, "Oh, my god, this guy is so hilariously stupid and out of touch." We just thought, "Oh, he's a nice old guy," but so what. We just went back and won that battle really quick. The law firms immediately, all of them, hired Jews right away. At least a token few, at least a couple so they could come back to Boalt.

04-00:32:44

Stein:

Right. And continue recruiting.

04-00:32:44

Warner:

Yes. But this is Boalt. It was hard to be the fancy law firm in San Francisco and not interview at Boalt. It never quite got public because they backed down, but it was really kind of an interesting thing. So then I decided, well, law school should really be two years, not three, because you just learn these basic stuff by rote and then you take these more courses that are kind of meaningless.

We go to war with the faculty on the idea that they should voluntarily agree that law school should only be two years. Well, of course, this would—

04-00:33:28

Stein:

Now, why did you want it to be two years?

04-00:33:29

Warner:

Because you learned your contracts, your torts, your basic courses, and then the third year you just took elaborations of them. There were no clinicals in those days. Everything was at the law school, boring text books, reading cases forever. Some of the other things that we were advocating for were getting people jobs in low income law projects and stuff and getting people off of the campus and allowing credit for practical experience. That we made progress on. Also, another one of our planks was doing away with grades. We actually succeeded in that pretty much. The law faculty was so afraid of the students at that point, and we were so fierce, that they changed the whole system, which had been a numerical ranking system. So you actually found out that if you were thirty-seventh in the class, you could have had an 85.6 average, but fifty-third, it would have been an 85.2. People took ranking seriously. So we did away with all that, believe it or not, though the faculty-student cooperation committee. They just knuckled under and went to a high pass and pass system, which the students, a few years later, rebelled against because they couldn't stand not being divided up, and after hippie days were over put it back to something like it was originally.

04-00:34:46

Stein:

Really?

04-00:34:47

Warner:

Yes, because lawyers love to be categorized.

To know exactly how good they are. So anyway, we did, for a while, do away with grades. We used all the money from the vending machines to invite various radicals from around the country to come and speak to us, people from the south, civil rights people. Generally kind of had a high old time at a time where the older faculty didn't know how to react to angry and organized students. The one reform that I really wanted to do, but I didn't quite understand it well enough, and I don't know that I would have had that much support, was the fact that law school education had been totally captured by the pragmatists about fifty years before. Oliver Wendell Holmes and his

father, and the whole idea had become this is not about truth and justice, it's only about who wins. There was this elaborate system justifying an adversary system that never once mentioned any kind of platonic or other kind of concept of right or wrong. Right or wrong was irrelevant in law school at that point, and the systems that were later to make a little more sense of stuff, mediation, collaborative law hadn't popularized yet. So the whole thing was about the adversary system. The big reform had been to allow pre-trial discovery. Before the Second World War, the whole legal system had been like Lincoln's America. Whoever could stand up and be the most convincing in court won. It was like in an old movie watching Abe Lincoln stand in the courtroom and make a speech that was better than the other lawyers. So Clarence Darrow versus William Jennings Bryan in the Scopes trial. Lawyers didn't, especially in trial court, and most country lawyers, most parts of the US, didn't do much preparation. They just kind of went in—

04-00:36:57

Stein:

It's about eloquence?

04-00:36:58

Warner:

Yes. From a law school point of view and a procedural point of view, this was horrible because half the time people had hid evidence from the other side. Especially, prosecutors had no rules that made them turn over exculpatory evidence to the other side. Around the Second World War and after, the idea that each side could find out what the other person had hidden under their vest. So courts required the pre-trial discovery system, which had been the big reform of maybe the forties, but certainly the fifties. That's what we were kind of taught, was the way this whole system was going to get fairer and better. But I just found it completely unconvincing that this would be a fundamental change. And a few years later as lawyers learned to pad discovery hours so litigation became far more expensive, it was just one of these things where the reform turned into the problem even faster than it usually does when we have reform. We're always reforming last year's reform in the US.

So I was mad that nobody in law school could take a course in philosophy, that we just didn't allow any kind of—not that I was the least bit religious—but any kind of world view that was other than who wins or loses in the courtroom kind of thing. I was horrified by that. Undergraduate stuff encouraged you so much to ask—at least if you were doing history or humanities or comparative religion to philosophy—to ask fundamental questions. But fundamental questions were not allowed at law school. It was just here's this doctrine of contracts. Here's the *Pennoyer v. Neff* procedure. Then this happened and that happened and you just would learn, “Oh, that's an out of jurisdiction issue, I see. Well, if it's that situation as opposed to this, you win.” So people would just endlessly research cases and look for some little bit of logic, logic chopping I used to call it, to buttress kind of their point of view. Constitutional law was a little better because you had sort of the interesting federal tradition, Marshall putting together the country, how the

civil rights stuff fit into that. It was kind of the only place where you grappled with larger questions. But most of law school was not spent—

04-00:39:29

Stein:

Were the professors comfortable talking about the civil rights issues of the day?

04-00:39:33

Warner:

No, not particularly. They didn't talk about them. We learned most of the civil rights stuff from kind of the newspapers. The textbooks were behind. I have a little trouble remembering it exactly. There must have been somebody at Boalt who was on current edge law stuff from the South. When I got here, I remember leafing through my criminal codebook, being just bored sitting in this big class and reading the thing, and finding out that if I had been in California—this was 1963 or four—if I had been here ten years before, I couldn't have married a black, Asian, mulatto or whatever. California was pretty conservative and we had an older, fairly conservative faculty.

I gave a speech that I remember mostly because an African American friend, a guy I didn't know at the time, a first year student who was coming in. It was the job of the president of the law school to give a welcoming speech. Well, I gave a welcoming speech that said, "I think you're going to find this is the most racist, sexist, backward, boring place on earth, and we're trying to change that. Maybe you'll be part of the change. We have a diverse state with however many million people and here's the population breakdown of Boalt. There's like two African Americans sitting here." I don't think I knew it, but in fact, the guy who later become my friend was called in three months later and told, as a lot of African Americans were told at the time, "We don't think you're going to make it here. We don't think you quite have the training and what." He's from South Carolina. "So we will arrange for you, and even pay for your first year," at what amounted to a third rate law school, "and it will never be mentioned. You'll just transfer and it will be fine." And he refused.

All right. So we're talking about kind of doing this speech and this was my chance to get carried away with hyperbole. I later heard the story basically about how they treated this guy, who eventually refused and said, more power to him, that he would just go public and go to the newspapers unless they helped him. He was from South Carolina. He admitted that maybe his education wasn't as good, but the Boalt professors job was to teach him and they better get him some tutoring and some help and he would be there as early as they wanted, as late as they wanted, and more or less, they kind of did. He graduated, Mel Hodges, and is still pissed off about the whole thing. He's a kid who had come through segregated schools in the south and even a black high school that was the elite high school in South Carolina for blacks. Interestingly, in the civil rights era, so many leaders had gone through those elite southern black high schools. When the Supreme Court forced them into desegregating the school system, the first thing they did was tear down Mel's

high school to kind of punish the civil rights leaderes. They turned the elite black high school into a parking lot and took the bricks and used them to build the wall around the University of South Carolina higher, which of course—

04-00:43:24

Stein:

Oh, my god.

04-00:43:25

Warner:

—they were still refusing to let blacks into the university or only under court order. I don't know anyhow. It was a lot of fun to stir things up at Boalt and in the process I became thoroughly radicalized. I think from the moment I got to Boalt, kind of wishing I'd gone to grad school in history, thinking this was a mistake, certainly not wanting to be a lawyer. The idea of wearing a suit and a white shirt and a necktie and going off to one of these stuffy places. Third year, I refused to go to any job interviews. Everybody went to all these interviews. I didn't go to any because I just thought the only thing I want to do is do maybe environmental law. I was getting pretty fascinated with environmental stuff. I hadn't totally fallen in love with the Sierra and climbing and backpacking yet, although that was soon.

But in the meantime, my marriage was just completely falling apart and Jean and I split up in maybe February of my third year. In the fall we had decided—I had decided more than her—we just needed to change the whole way we were doing stuff with this traditional relationship. “You need to go to school. You need to go back to college.” So she was really good at art, at many things, and went to the California School of Art or whatever in Oakland. It used to be called arts and crafts. We had a little bit of money saved so we could actually sort of afford both of us to go to school. But even though you would have thought that would have made things a little better and we would have been on our migration to being a more modern couple, it just didn't seem to, and so we just were so miserable that in February, or right after my exams, I think, she actually moved out, found an apartment, and decided, oh, I could just take care of the kids. So I was taking care of the kids for a couple of weeks, going to law school, being the radical president of the law school. Fortunately, I had a few friends who helped me. Then she kind of decided, “Oh, well, maybe she would take care of the kids.” Actually, my taking care of the kids wasn't a problem, why shouldn't I take care of the kids? They were my kids. But anyway, everything was pretty confused. So that was another reason why I didn't know what the hell I was going to do when I graduated—since we usually followed my plan in life, not necessarily her plan—which was to go back to Washington DC. I'd figured how it worked out the summer before working back there, and I knew I could get a job for the Interior Department or something—in those days, it was before we had separate environmental agencies—and do something that was policy related in Washington. But hey, now I was in the process of getting a divorce, apparently. My kids and my former wife were here. But that time, the whole thing, I think for me at least, I don't know about for her, had really, for the last

six months, not been so much about her having an affair. I think we were totally ready to be apart, both of us. There weren't any strong ties. I think from the moment we got apart it was this, "Sigh of relief." And plus, hey, it's Cal in 1966. "Oh, my god, I have my life back." But I have two kids and it's like, "Oh, my god." The idea of being separated from them kept us together for six months longer than it would have and it certainly kept me from, "Hey, I can't go back 3,000 miles away." "Oh, my god. No way." So I was just sort of a little frozen, not doing anything, and then that spring, at a radical political rally I meet Ann. Here I should say that I'm single going out—sounds sort of shady—dancing at night to pick-up girls at some bar off Telegraph Avenue or something, coming to class sort of hung over and tired but still trying to graduate and being president of the student association and trying to be a father and see my kids all the time. Somehow, I got the best grades I got the whole time at Boalt by paying almost no attention to anything class related.

So that May or something, I went to a radical political rally for the anti-war candidate for the local Congressional district. It was starting to be anti-war stuff now. This was maybe sixty-six. The spring of sixty-six was the first time that there were enough people in Vietnam that it became a big cause celebre. I'm sure there had been people who had been against the Vietnam involvement from the beginning, but in terms of an anti-war movement it really began in 1965. There was a traditional democrat congressman from this district, just sort of your normal sort of white liberal guy, Jeffrey Cohelan who had been a seven or eight term congressman but had supported Johnson's continuation of the war. So Robert Scheer, who later became very famous as a writer and left-wing thinker and was borderline Communist Party, probably, ran against. Just an intellectual with a beard and curly hair. Just a total different kind of guy than the normal. Because Berkeley had actually had a Republican mayor when I moved here. It had been a moderate area, even though there had always been the co-op people. There had always been a lefty part of Berkeley, but it was not even the dominant part in Berkeley and certainly not in Oakland and East Bay.

The Scheer campaign was, for people in that generation, just the biggest thing that happened. People showed up by the thousands and walked precincts. I'm mentioning it just because that's where I met Ann, my new modern girlfriend who is a senior at Cal. She and her three best friends, the four of them are the four most gorgeous women I've ever seen. But this is my first time of pulling down the shades and getting stoned. I don't think I was into it that year but, I remember, one of the boyfriends of Ann's girl buddies friends used to do LSD rescue all the time. Believe it or not, LSD was legal. There was a guy named Owsley who supplied everybody. It was this famous guy. Everybody trusted his particular little tabs. It was just kind of the thing to do for a couple of years. But lots of people would have bad trips. So now you might have a suicide hotline. Actually, there was this volunteer LSD rescue place where people would go work all night and talk people down. So suddenly, I'm not in

the university village, I'm not playing bridge with people that are acting sort of middle aged.

I'm suddenly with this beautiful Cal co-ed and my world is starting to change. I'm starting to get pulled back into the sixties.

So that summer, I'm studying for the bar, I'm wandering around the law school kind of at a loss as to what I'm going to do next, and one of the law professors comes up to me, who had been on the faculty student cooperation committee, quite a conservative person who had kind of gone along with doing away with the grade thing and what not. His name was Lauby. I never thought he liked me much, because he was a conservative contracts professor. He comes up to me and he says, "Oh, the dean tells me you're one of the few people near the top of the class who doesn't have a job. By the way, my friend, the judge of the Ninth Circuit, needs a clerk. His clerk got sick, died, whatever. Would you like to go talk to him?" And this guy Richard Chambers is an extremely conservative judge on the Ninth Circuit Court of Appeal in Arizona, California, Oregon, Washington, Montana. It's the biggest circuit and it's like clerking for the next level to the Supreme Court, but, on the West Coast.

So the next day I'm over in San Francisco in the chambers of Richard Chambers. I walk in kind of thinking, "Wow, I do really want this job. Oh, my god, it's a one year job. It pays quite a lot. It's got health care coverage. I can just put off all decisions for a year." These were one year clerkships in those days. He only had one clerk so I was going to do the whole chief assistant thing. I walk in and I go across this gigantic office in the old federal post office and courthouse. It's just the Court of Appeals building on Seventh and Mission. Marble thing, gigantic office, fireplace, and this guy's sitting there. He gets up, shakes hands. He talks very slowly. We sit there for about thirty seconds more, he doesn't say anything. He just looks at me and he finally says, "Can you ride a horse?" I said, "Yes, I can ride a horse." He said, "Well, good, because I go to Arizona for six months in the winter," because circuit court judges had a right to keep an office from where they were posted from a tradition from 150 years ago when they did ride horses. So he had a couple of horses on the desert and he liked his clerk to be able to ride with him and listen to old stories. He probably would have hired me anyway. Probably would have taught me to ride a horse, because we never rode fast. He just said, "I'm who I am. You know who I am. I'm just a kind of conservative guy and I just want to know one thing. If I hire you, are you working for me or are you working for you?" And I said, "I'm working for you, Sir." And he says, "All right. I'm going to trust you on that. You can ride a horse too, great. Be here in two weeks. You got to start in two weeks." Well, it turned out that the bar exam wasn't for another month, so I had to start working instead of studying. I got there and I was slightly intimidated in the sense that everybody else who was clerking for the other ten or so judges in the courthouse had graduated number one in their class at Harvard or Yale and all they had ever

wanted to do was get the most prestigious clerk. So I just accidentally kind of lucked in. So I just had this vision of, "Oh, I'm going to be the only one that flunked the bar exam." In fact, a couple of them flunked the bar exam and I passed the bar exam." But anyway, it was just that kind of moment.

But suddenly, okay, I went from two weeks before not knowing what the hell I'm going to do, now I have this job that's like, oh, my god, the cat's pajamas, at least for traditional law students. But I don't want to be a lawyer, remember. I'm just doing this because I lucked into it. So I get there and I walk into my office. The clerk's office is a corner office with windows maybe twelve, fourteen feet high, 32 feet ceilings, my own fireplace. Probably these days it's divided into ten cubicles with the ten clerks. But since he was the Chief Judge of the circuit he had a right to have two clerks, but he only wanted to have one. Turned out the guy from the year before had gone to some East Coast school, was very liberal, but had not listened to the speech about, "Are you working for you or are you working for me?" and on the first opinion he drafted, because the clerks for Chambers wrote every word of the court's decisions that he put his name name on. You read the cases. He would give you these little pieces of paper about half the size of a normal sheet the night before the oral argument and you were only allowed to fill the front and the back on what the hell he was supposed to decide was right after reading all these piles of briefs. Of course, you were working for him, right. So if it was a drug case on the border and it was an anal body search and the Ninth Circuit had ruled on that before, that it was okay for the border cops to do that because you have no right to probable cause at the border, you could search anybody, that's what you were supposed to say on the little notes, because you'd done the research and the case law was clear. This was not the Supreme Court, it was the Court of Appeals so we couldn't overturn Supreme Court precedent. Anyway, the year before, the guy had double-crossed Judge Chambers on the first case and had tried to write an opinion that changed the law in a liberal direction. Chambers refused to talk to him the rest of the year. Left the kid there for the whole year marooned but it meant Chambers had not written one of the cases that had been assigned to him. He had been assigned dozens. Even though he was the Chief Judge and he sat on less than some judges because he had administrative duties, nevertheless, there were like twenty cases a month or something, and there were three judge panels, so six or eight or ten of them would be his. So there were like a hundred undecided cases with boxes piled everywhere. The two secretaries were just laughing. "Well, your job is to just do those first."

Well, I just sat down and did the whole thing in about two months. He liked quick decisions and I'm good at reading fast. It was like most of the cases that came to the Court of Appeals were not terribly complicated by law. So after two months, and before we went to Arizona in like October or November, I was on to this year's cases.

04-00:56:50

Stein: That's impressive.

04-00:56:57

Warner:

I think one of the things I learned that year was—and again, this is sort of a cynical, contrarian view—that a great number of cases that were coming before this court never should have been there in the first place. Why were they there if you already knew who was going to win, in a sense? Say a National Labor Relations Board case where there was a fight over the unionization of a Pepsi Cola plant in Alaska, say, which was in the Ninth Circuit. Somehow or other, three or four years later, this had wended its way up to the Court of Appeals when the underlying question of what the law was, whether it was an unfair labor charge or not, seemed fairly clear cut one way or the other. I just remember saying to Chambers, “What is going on with cases like this?” because the law was so cut and dried. He said, “Well, did it occur to you that the lawyers get paid by the hour and that they love to come to San Francisco and bring their wives and stay at hotels?” So I started to see how easy it was for lawyers, especially, say, you're representing a labor union or you're representing the management side, and you've lost the first round but you go in and make a speech. “You had every right to hit the bricks - the Federal District Court can't make a mistake. We're right. I'm going to prove that. We'll take this all the way to the Supreme Court.” Yes, yes, yes. So the system had become, at least from the view here about benefitting the lawyers. The legal system had become a lot about benefiting itself, benefiting the lawyers, even the judiciary, at the expense of the clients.

04-00:58:36

Stein: Well, that sounds like a great stopping point, a great lead in to our next chapter.

04-00:58:38

Warner: Okay. Right.

[End of Audio File 4]

Interview #3: July 9, 2009

Begin Audio File 5 07-09-2009.mp3

05-00:00:00

Stein: All right. It is July 9, 2009. We're here with our third session with Jake Warner. All right, let's get started.

05-00:00:25

Warner: Okay. I think we were in the fall of 1966. I've got this cool clerkship. I'm about to move to Arizona because Judge Chambers goes down there to Tucson six months of the year. This happens in October, the end of October, maybe. I'm going to spend the winter down there, which is a really interesting experience for me, because it's the first time I've been by myself. I've got this girlfriend Ann, who I talked about, in Berkeley, but now I'm going to go down there and just live in a little apartment. For the first time in my adult life, I'm not surrounded by college classmates or people. The woman in my life is back in Berkeley. So for the first time since I'm sixteen or seventeen, I don't have a girlfriend present. So that's like the experience of being lonely and getting up and doing days where you're by yourself and figuring out how to make yourself happy, which is something I think we all need to do. I won't belabor it, but I think that was kind of an interesting experience. But I think my larger conclusion at that point in life is that I've screwed up on a lot of things on the personal side of my life, and I think maybe I suspect I'm going to keep doing so, which is certainly true, but that I need to start just getting some priorities and ordering things and being a good father needs to be number one. That's the most traumatic thing that's happened with splitting up with Jean. I've got these two little kids. I'm really close to them. Eddie is, at this point, three and a half. Andy's just maybe a year and a half. How am I going to do this? This is like almost the impossible job. So along in there, Jean and I get divorced. I'm much more on the side of how much support can I afford to pay, not how little. And I need to figure out how do I stay part of their life? So back in the summer when I'm in Berkeley, I'm seeing them three or four times a week. Now I'm in Arizona, so that's a little bit hard. Just little tiny kids. You can talk on the phone but it's hard to talk to little kids. This is the first time. This is sort of exacerbating the personal side.

On the work side, it's just kind of what I was saying before. I'm just dealing with all these briefs and piles and mountains of stuff on case after case after case, many of which I'm sort of concluding never should have been there in the first case.

05-00:02:48

Stein: Did you find it hard to write in his voice given that you had such different political views?

05-00:02:53

Warner: No. Interestingly, it was just something that came naturally to me. I loved to write. He liked short, acerbic, and humorous, and so did I.

05-00:03:05

Stein: Humorous in a legal brief?

05-00:03:07

Warner: Well, it's interesting. I wrote two or three opinions with remarks that historically probably weren't that funny, but got picked up in Herb Caen's column, who was the big gossip columnist in the *Chronicle* at the time that everybody read. So Chambers just loved that. He loved being quoted, even though I had written it.

He was an Arizona cowboy from a family that had come from the east, that had money. So he'd been sent to Yale but basically had made his way up in conservative politics in Pima County in southern Arizona. Had been chairman of Goldwater for Senate or something, got appointed as quite a young man. So he'd been already a judge for fifteen years. But he basically loved to act like he had a piece of straw coming out of his mouth and talk in a drawl. He kept a couple of horses out in a desert in this ramada, and he really liked being there. They were just sort of outside in a corral on the edge of the desert. So once a week, I'd come to work on Wednesday or Thursday for an hour or two, and then we would go out riding for the rest of the day and have lunch somewhere along the way. Basically catch the horses, clean out their hooves, brush them, put on the saddles, and he'd just basically tell me old political stories or things about what happened secretly when Nixon boarded the train and stole the delegates from Warren in the fifty-two convention, this kind of stuff. Hey, this was fun.

During that winter, Ann came down in the middle of it. I'd gone back at Christmas, seen the kids. The big plan was Ann, who was just graduating from Cal, was going to take a quarter off and come down in the middle of January or stay until March. Part of a quarter or a good part of it. But by this time, although we were in love with each other, we were already getting along sort of badly. I just thought, "I'm just not loving this woman enough. The fact that she's depressed a lot, moody a lot, doesn't want to get out of bed some days." The first part of our relationship in Berkeley when it had been just the two of us had been sort of great, but now I'm being introduced to her parents who live down by San Jose and every one of these family things becomes a huge trauma for her. She's just sort of angry, unhappy, miserable. I guess you'd look at it now and you'd say some kind of bipolar, manic-depressive, depressed syndrome in her personality. So she'd be very happy for a few days and then very miserable, and to the point, of sometimes not even being able to kind of get out of bed. But nevertheless, this is impelling me forward. Okay, if you are unhappy I'll just love you more. So during the times we're separated, we have these phone conversations where sometimes she won't talk for fifteen minutes. She's just holding on to the phone, miserably. Well, what should I have figured out about this? But nevertheless, she comes down to Arizona. Again, it's just the two of us. We don't know anybody and so we're quite happy. She's kind of cheered up. We don't have the pressures of a social

network, of jobs, of bosses or parents or families. So we actually have a pretty good time exploring the desert, going down to Mexico. I've got this basically easy job. So she comes back to Berkeley before I do. I get to be lonely for another six weeks and come back, finish up the clerkship.

And during that year, I thought, "Well, what am I going to do next?" So I conclude, okay, the kids are number one. I just have to basically shape my life to their needs. I'd had the vision of going back to Washington, DC, getting a job with the government, doing some kind of environmental policy thing, not really law. So this was really sort of like a parallel track in my mind. During the winter while I was working for Chambers, sixty-six, sixty-seven, I decided that air pollution was going to be the next big thing nationally and the federal government was going to have to be involved. Believe it or not, in the mid-sixties, the federal government was basically not involved. So I figured which federal department had jurisdiction over this, assuming they were doing anything, which they weren't. There were no national regulations whatsoever. It was in the Department of HEW. Health, Education & Welfare, which doesn't exist anymore. It's been changed into education, housing and so on. HEW was this federal bureaucracy that really had not much power over anything in those days, because education was really all in the states. It was really civil rights that started getting the federal government involved in education at all.

Anyway, I wrote them a letter to find out who it is I'm supposed to write to. I can't remember how I did that. And I say, "I'd like to apply for a job as a lawyer or legal policymaker in whatever part of your department deals with air pollution." I got a letter back, a really polite letter saying, "Oh, my god. Thank you for your application. You sound great." "We would love to offer you a job, but we don't have any lawyers working in air pollution. In fact, we don't really have anybody working on it but there's starting to be a movement to do so. We'll let you know. In the meantime, we're forwarding all your stuff to the Department of Justice, because to the extent there's any enforcement at all in these areas, in gross pollution kinds of cases, it's in the Department of Justice." So I'm totally not interested in going back and being a traditional lawyer in the Department of Justice, so I kind of forget about this and start thinking I'd figure out something else. But the funny thing is, three months later, I get a letter back from out of the blue saying, "Due to a new Congressional act we've set up the bureau of something or other within the Department of HEW for air pollution. Would you like to be the first head of it?"

05-00:09:38
Stein:

Wow.

05-00:09:38
Warner:

So, oh, my god.

05-00:09:40

Stein: Talk about being ahead of the curve.

05-00:09:41

Warner: I know. Also, I'm twenty-five, just going on twenty-six. Of course, I haven't gone back and done all the interviews, but basically I'm being offered the job as the first federal policymaker lawyer for what is going to become one of the burgeoning—it's partially being born in 1941 and being ahead of the Baby Boom curve. So I have this kind of crisis around whether to do it - which is not a real major one, because I've really already decided, "Wait a minute. I can't go to Washington, DC. My kids are here." This is like breaking rule number one. So I wrote them back and said, "I know I started all this and thank you very much, but I can't do it."

So what am I going to do? Legal aid had been just started as part of the War on Poverty by the Johnson Administration. It was a sort of continuation of the civil rights initiatives to the north to try to unghettoize America. The Model Cities program was a key element. But Legal Aid, the legal services corporation, as it was known, under the Office of Economic Opportunity, had been one of the key elements of it. The idea was, of course, to go out and hire young lawyers, law students—kind of almost a version of what might be Teach for America today—not pay them a whole lot, send them out to ghettos every place in America, and for the first time, let poor people have representation. Somehow or other, this was going to help end poverty or it was going to be a big plank in a larger kind of wall or deck in ending poverty. So you were going to provide direct legal services to low income people, but also, you were going to have lawyers who could bring test case litigation in all these fields where poor people had no representation, basically, since the country was born. So this was exciting.

I just remember this thing because my father, of course, being a lawyer in New York—I had now done about five wacky things in a row and so this was going to be the next one. Just, "What? You're going out to get a job in the ghetto? You clerked for the Chief Judge of the Ninth Circuit." Chambers, of course, was trying to introduce me to all his friends in the major law firms in San Francisco. I had to turn him down gently and also explain to my father that Legal Aid was really an interesting thing. About that time, or maybe it was six months later, but in that year, the *Wall Street Journal* ran an article about how every bright young lawyer in America was going into poverty law, and they had written something like, "Out of that year's class at Yale, only one person had gone into the traditional law firms, the rest into the War on Poverty." My father loved this. Now he could show his friend. "Look, see what my son is doing."

05-00:12:51

Stein: Right, right.

05-00:12:51

Warner:

Yes. So I applied, talked to various people. All these programs were new and starting. Some of these programs had been started the year before, but the program in Contra Costa county was new. It was based in Richmond on the Bay, in the ghettos that had really formed after the Second World War with all the leftover ship workers who were now unemployed. They'd brought enormous numbers of people, African Americans and poor whites from the South to work on the Rosie the Riveter kinds of wartime jobs. After the war, a lot of veterans came back. First of all, they weren't building very many ships and so on. So there was a lot of unemployment. Richmond had gone from maybe 20,000 population in 1940 to 125,000. And that 100,000 in Richmond, San Pablo had mostly been poor folks from the south, many of whom weren't eligible even to be drafted because of education or other problems or age. But they had been wartime workers and now they were all just sitting there in these angry ghettos right next to each other. Poor white ghetto, poor black ghetto. Just like Mississippi. Just like where they'd come from with exactly the same attitudes. So anyway, I accepted that job as a lawyer in the Richmond office.

Ann and I got married that summer, crazily as it turned out. We went to Europe, had a terrible time. Met my parents, had a terrible time. She hid in a room the whole time, because they lived in New York. Who knew. But, as usual, or as was sort of common in those days, my private life was kind of falling apart and my public life was doing great.

I finish my clerkship in July, we go to Europe in August, come back, I start the new job in September. Oh, my god, this is totally exciting. We got four lawyers, all of us probably average age of about twenty-six in Richmond. A couple more in Martinez and a couple more out in Pittsburgh in Eastern Contra Costa County. So there's ten or 11 of us and poor people in Contra Costa County have never had a lawyer before, so you open the doors and there's just people lined up. Originally, we were mostly working on personal law stuff, that you just get people who come in and say, "Well, Mr. Warner, you see, in 1922 I got married and, well, then she ran off in twenty-seven and I didn't really have money for a divorce down South. Besides, colored people," as older people would say, "weren't really allowed in the courts in Mississippi. So after a couple of years, I got married again because I met so and so." So anyway, they basically come in with all these pieces of paper in handbags, dump it on your desk, and unravel four divorces and marriage. Thank god, under California law, you couldn't get married a second time if you were still married, so you could explain, "Well, these three didn't really count. And by the time, they'd heard the first guy was dead." So, "Hey, you're free at last."

Yes. But we would often mass produce law, be doing five or ten divorces at the same time. We had eligibility workers, legal secretaries, later called paralegals, who would take down the data. Sometimes I would meet the

clients for ten seconds or for two minutes. These were uncontested divorces, low income people, where usually the other person was gone, had been sometimes gone for years. There were certainly no dispute. I'd never been in a courtroom except to watch my father argue some cases when I was a kid. At Boalt, there were no clinicals, no nothing. You just took all these courses. So here I am in a courthouse, on some days with ten women, half of them African American, half of them poor white. I'm in the hall calling out their names, introducing myself, having all these files, and going in and doing ten divorces in a row. In theory, you needed fault in California in those days. No fault divorce came in a couple of years later. So you actually had to have each person bring a witness. The witnesses sitting in the jury box, your clients on the stand, and you would basically start out, "During the course of your marriage, did certain irreconcilable differences lead to the irremediable breakdown of your union?" You asked questions like this that nobody understood. Total legal gobbledygook. There was no need for this. You could have just asked that question in plain English easily. But in those days, everything was legalese. People had gone—

05-00:18:02

Stein:

Were you required to use language like that?

05-00:18:03

Warner:

Yes, yes. And people had gone to law school. A lot of them were poli-sci and history majors. They had learned to write fairly well. Then they'd gone to law school to, in a sense, learn this bastardized foreign language - a mixture of old English, ancient French, little Latin phrases all strung together to create sentences that nobody but you could understand. So you had to tell your clients, "Okay, whenever I pause, you say yes. There's going to be five yeses and there's only one no. I'll just spout this off and I'll pause and you'll say yes." Then I had to write down the sentence about what the fault was. That had to be individual to the case.

05-00:18:54

Stein:

And the client had to say that?

05-00:18:55

Warner:

No. You would say it to them, and then they would say yes. But you had to have at least note it down. So it would be, "Well, for several years, did your husband get drunk every night, carry on with other women, and not come home at all or not come home until two o'clock in the morning, and did this cause you extreme mental distress?" kind of thing. But you were still mass producing them, at least once, maybe more. I jumbled up the files and asked a question like that one, about the person staying out all night and drinking, carrying on. At one point this woman, the large African American woman who's sitting on the witness stand is getting more and more agitated as I'm saying this. Kind of just about to burst. She barely waits until I finish the sentence. And before the witness, who's job is just to say, "Yes, that's true. I know this is true." The woman getting the divorce said, "No, no, no. He hit

me over the head with a baseball bat.” And I realize, “Oops, wrong file.” But the system was pretty forgiving. So then the judge just smiled and he just looked at her and he said, “Well, did he really hit you over the head with a baseball bat?” “Yes, he did,” she said.

05-00:20:07

Stein: Yes.

05-00:20:09

Warner: The witness nodded her head. “Fine,” the judge said, “divorce granted.”

05-00:20:12

Stein: Wow. Was this really the vast majority of the cases you were seeing or—?

05-00:20:15

Warner: No. You had this overlay of this routine stuff that never should have been in the legal system. Stepparent adoptions, name changes, uncontested divorces. The next stuff over was much more interesting because you started getting into the fact that the legal system, without anybody sort of pushing back from the poverty end of it, had created these just massive levels of unfairness. For example, we had lots of eviction cases. People couldn’t pay the rent. But often, people were living in these terrible conditions with horrible landlords. There were building codes, but the city didn’t enforce them. Landlords could get away with almost anything. Occasionally you’d get the case where it wasn’t just that your client couldn’t afford it, it was just the horrible situation. The one that went up to the California Court of Appeals and later led to change in California law involved Mrs. Hinson, who weighed about 300 pounds, and was renting this fallen down shack from a guy named Nick Delis who had taken over a bunch of wartime housing and just put a fence around it and created this little white ghetto of poor white folks right in the middle of an African American neighborhood. So we had loads of cases against Mr. Delis. We had so much fun with him.

But this one, Mrs. Hinson walked across the kitchen floor, the wooden kitchen floor and the boards gave way and she fell into the crawlspace. So she got kind of mad and didn’t pay the rent. No place in America at that point was habitability a defense to an eviction. Believe it or not, you still had to pay rent even if there was no floor. So this was the kind of stuff where you’d really get to be innovative and have fun and we cobbled together an argument that said basically, “If he doesn’t provide a livable space, she doesn’t have to pay the rent.” And it won at the trial court level. They appealed it to the court of appeals. We won again. It was like the first case in America getting that far. Well, then, the statewide landlords association took a look at the case and refused to take it any further. So we had this precedent in one court of appeals district in California. But it was such a bad case from their point of view. They didn’t want to go to the California Supreme Court. Here the woman is lying in the crawl space, should she really pay for this apartment. The next year, a similar case, the Green case coming out of another part of California

did take it to the Supreme Court and the habitability principal got established in California law, which is still there in the law today and very much in use. Tenants all the time refuse to pay because the roof is leaking. It actually spread around the rest of the country, so most states now apply that.

So a lot of what we were doing, especially that first year, was fun. A lot of it was sort of low hanging fruit in the sense that, oh, my god, you'd get so indignant at the fact that with unemployment appeals, when employers lay people off at low end jobs, they commonly wouldn't pay their unemployment. The employer would oppose it. You might assume, not being in the situation so much, oh, somebody leaves a job for whatever reason, and unless they just quit totally voluntarily, they qualify for unemployment insurance. Well, in fact, there are all sorts of technicalities in the law and you get situations, for example, the eighteen year old kid with super bad acne who's working at a burger flipping place with all this grease and his face is turning into a zit balloon. His doctor tells him, "Hey, you can't work around this grease." And so he leaves the job because his doctor's told him so. In that situation, the doggy diner would oppose the unemployment and say, "Oh, he left voluntarily for no good reason."

05-00:24:29

Stein:

Voluntarily.

05-00:24:31

Warner:

Low income people had no coping mechanisms on things like that, or thousands of cases like it because it suddenly became bureaucratic and they had no idea how to fight it. There was a hearing before a hearing office at the unemployment department, but that was another world for lots of low income people.

05-00:24:45

Stein:

Would it have hurt the diner in any way to have that person paid? Did it come from the federal government or—

05-00:24:51

Warner:

Yes. Unemployment insurance, the employer's rate is adjusted by how many people you've laid off in a period of time. So you have to pay slightly more. In the case of the diner, with one person or even five people claiming unemployment, it would be almost negligible. But it was enough that a whole industry had grown up of little companies who solicited low end employers to say, "Hey, we can cut your overall cost by opposing these things for you." So the companies that fought low end claims had a lot of experience. The low-income people had no clue. So they would start coming to Legal Aid. For the first time, they had a clue. We would win those things nine times out of ten for low income people by going down there. Oh, my god, suddenly we were a lot smarter and more articulate than these guys that were representing the companies in part because we researched all kinds of novel legal theories. In fact, in California, believe it or not, the employer had two bites of the apple in

the sense that if they lost the first appeal, they could take a second appeal. But the employee couldn't. It was just massively a violation of any kind of due process. We took that case all the way to the US Supreme Court and won. This was Legal Aid at its best, rejiggering things. I could give you lots more examples. But in terms of my sort of mental development, I'm there for about three or four months. The guy that's running the Richmond office is not a very good administrator. And maybe there is also a certain amount of politicking on my part. Anyway, suddenly I'm in charge of the Richmond office. So now I'm twenty-six. I'm running a four person program. By the way, we can bring almost any kind of lawsuit we can cook up. A lot of what was being cooked up nationally and fed to us. We would go to conferences run out of OEO in Washington D.C., even though individual counties programs were nonprofits and incorporated separately in the county. We were all getting our money from the same federal place, right.

So the left wing radical lawyers in Washington who were doing nothing but sitting around coming up with theories were populating the left-wing radical lawyers in all these fifty state programs with ideas. The big one was to make poverty or lack of poverty, getting out of poverty, a civil right. Everybody had learned from the civil rights movement the power of the federal government to claim that state action, the action of the state in terms of segregating schools or jobs or water fountains, whatever, was unconstitutional. So now let's move on. Hey, this is the war on poverty. These are heady days. The Vietnam War is going to clamp it all down in a year or so. But in sixty-six, sixty-seven, the anti-War movement is going but the Johnson Administration still has a lot of street cred with liberals because of the civil rights stuff and actually because of the war on poverty. So in a year or so, we're going to all hate Johnson and fall in love with Eugene McCarthy and fall in love with the peace and freedom party in California and on and on.

So anyway, the folks at OEO have come up with these theories that we're going to bring cases around the country, very carefully selected just like the civil rights movement to get the right ones in the right places. But we're going to establish a federal right to not be poor below a certain threshold. It would almost be like now, the UN going out and saying, "Nobody in the world should have to live on less than three dollars a day or something." People were absolutely serious that we were going to be able to go through the federal courts and do that. Sometime in about sixty-eight, there was a major case whose name I forget back in Delaware or Maryland that was going to be the big case in federal court to establish this. We lost. What arrogance! You can kind of look back now and say, "Were these radical kids really going to establish a constitutional principle that there can't be any poor people in America?" That was sort of the vision. But once the key cases were lost, then I immediately saw that a lot of what Legal Aid was doing was doomed. Now without any constitutional mandate we were trying to change the welfare system, trying to change the terrible housing systems, by filing piecemeal cases here to get these groups of people more rights. But the pot of money at

the federal government end was finite. In fact, as we move forward past the election and Nixon gets elected, was going to shrink. So, in a sense, what was the larger point? Every time we won a victory to get more people welfare money over here, they were going to take it away from something else. And the same was true of housing, schools, and so on.

It was also becoming kind of more and more apparent to me that the impetus for a lot of these changes was not coming out of the community as it had with the civil rights movement. The early days of the civil rights movement and going back to the nineteenth and early twentieth century had been a lot of white people sitting around and deciding, "Oh, hey, we're going to, at least in part, fight a civil war over this." But gradually, in the fifties and sixties, the leadership had obviously switched to the African American community and lots of white liberals got mad because, "Hey, wait a minute. They're really serious about black power and stuff like that." Who knew. We always thought they were going to be grateful.

The war on poverty was, to a great an extent, a creature of the minds of radical kids, suburban kids who had all decided at one moment we're going to do good for America. There were almost no African American lawyers that were involved in it. There were very few in America as a whole, but they tended to not be interested. In many cases, they went to work for Pepsi-Cola or something, and why not. So a lot of the theories ended up gravitating towards the most radical group of white lawyers who often thought that more radical lawyers and more law was the solution. So this was another area. It took me a little while to gradually see it, but our biggest victories in a lot of the cases tended to be around the rights to hearings, the rights to better process. The example I gave you on the unemployment thing, which definitely needed to be done. But in the welfare system, we had no success in making poverty a larger issue, something that had to be remedied constitutionally. However, we had great success to establishing the right to everybody who was going to be cut off welfare to have a fair hearing, as it was called. We established this right nationally. So now, every time somebody had a welfare cutoff, they had a right to come in with a representative, a lawyer, even, from the federal government to fight it. We gave them no more money but more lawyers. The same thing happened in the juvenile system, where kids got in trouble before Legal Aid was established, the social workers, the probation workers, sort of decided, "Well, this family's really screwed up. We're going to take the kid and put him in foster home." Now everybody would come to Legal Aid. We would go down and fight it, win often, sometimes with disastrous results in the sense that one of our clients who we'd gotten the kids returned to on a Monday ended up going berserk and killing them on a Saturday. It was a real world out there and we were a bunch of rich lawyer kids screwing around with it. Not to say that horrible stuff like the kids getting killed couldn't have happened anyway.

So okay, but now everybody who was in the juvenile and welfare system court had a right to representation, and on and on and on. But we were running into a larger problem, that we had eleven Legal Aid lawyers spread across the country. Who was going to do all this procedural due process? If the pie of money or programs to get people out of poverty into jobs, wasn't really going to be there, at some level, what was the point of what we were doing? And certainly what was the point of a war on poverty if a lot of the impetus wasn't coming from the community itself.

05-00:34:27

Stein:

Were you starting to see a big spike in people requesting your services?

05-00:34:33

Warner:

Yes. The other part of it, from the first day, we turned away more people than we could serve because there were fairly strict poverty eligibility rules for Legal Aid, and that meant you were basically on welfare in those days. Maybe if you were an older person and you had a low level of social security we could also help. So there were plenty of people that were that poor enough to qualify, but two out of three people that came through the door were working class, lower middle class Americans who just simply couldn't afford lawyers. Hey, they worked at the gas station or they worked at the super market or they work wherever. In those days, lawyers regulated everything on a minimum fee schedule, which later got thrown out by the Supreme Court.

05-00:35:18

Stein:

What is a minimum fee schedule?

05-00:35:20

Warner:

Well, all the lawyers in town would get together—I was there—in a smoke filled room. Literally. Everybody smoked, all the lawyers smoked. They would decide how much a divorce was in town, how much a name change was, how much an adoption was, how much a preliminary motion on a drunk driving thing was.

05-00:35:34

Stein:

And this would be the same across the board?

05-00:35:36

Warner:

Yes, they couldn't charge less and stay in the local bar association. You could charge more.

05-00:35:37

Stein:

Across the county? Across the state?

05-00:35:38

Warner:

Yes, across the county. So basically, in Richmond, where you would have all these street corner lawyers competing with each other to try to get low-income clients—everybody would charge 350 bucks for a divorce, say the equivalent of say 2500 now. You couldn't provide one for less. Nobody was, in a sense, allowed to compete. There was no advertising. So at Legal Aid, we did an

intake form. We had more and more intake workers, some of them volunteers from Cal eventually and some of them we paid. They would go through these fairly complicated couple of page financial profile of people. If you had too much property, too much income, too much whatever, too bad. Then we'd have to give them the list of local lawyers, which they had. This wasn't rocket science, they were all the phone book and they all charged the same price. The lawyers, in those days, were very adept at taking, "Oh, you can pay twenty bucks down and ten bucks a month." Some of them would actually take second mortgages on their houses and foreclose if the client didn't pay the legal fees, which was completely unethical and illegal, but they did it anyway. They would set up dummy things with their secretaries so their name wouldn't appear on the form—

05-00:36:49

Stein:

And Legal Aid was completely free?

05-00:36:52

Warner:

Yes. Legal aid was completely free. So you had this system for very low income people who had never had any representation before. Now they had free lawyers. In some cases, as I was saying, it was the most wonderful thing in the world because low income folks were often screwed. In other cases, you'd get people who'd come in just trying to game the system. So if a slightly feckless person came in and hadn't paid the rent for a couple of months and told you a half decent story, you would be out there fighting the eviction and maybe being a little smarter than some of the local lawyers in coming up with this theory and that theory and keeping people in their place, sometimes for months, sometimes six months. In some cases, the landlord was perfectly decent.

On the other hand, it was becoming increasingly obvious that lawyers did not represent the middle class at all, the middle class or the working class. Fifty years before, where society was a little less complicated and there were less complicated federal programs it didn't make much difference. In the twenties, there was no social security, there was no unemployment insurance. Perhaps people didn't need that much legal help in their lives. But there was a pretense in the legal profession, I think a lot of people believed it, once we provide lawyers for the poor that will solve the problem. Well, it just eliminated the fact that there were tens of millions of poor people without lawyers. The ABA later, after the blinders started falling off and Nolo had been around for twenty or so years, they actually concluded that a hundred million Americans couldn't afford the legal help that they needed. This was circa 1990s. But we were seeing it sort of for the first time in the late 1960s. The other thing that was really revolutionary, as it turned out later, was that at least when it came to routine things, we were learning how to mass produce. We were like the MASH clinic in the Korean War or whatever, where for the first time, all these doctors are just sitting there and in come 500 patients. How do you triage them and then how do you mass produce solutions? So going back to

ten divorces at a time kind of thing, when private lawyers would do one at a time.

These things were sort of basically all in front of me at the same time. I'm really enjoying my job. I love all the different kinds of people I'm meeting. I'm starting to get invited to weddings and funerals out in the community. For some reason, I'm just happier about the work than a lot of the other Legal Aid lawyers are so I become the most popular one. Some seventy year old person will show up in a suit and a tie will only see me because they've heard I'm a good guy. At the same time—it's getting a little confusing here—the federal government has set up another layer of the Legal Aid program called the Reginald Heber Smith Fellows. As if they haven't already recruited the best and the brightest in the first two years of Legal Aid, they're now going to up the ante. So Congress passes it, and OEO has suddenly all this money to hire more Legal Aid lawyers who are going to be hired at this super elite level, which is kind of hysterical because most of the people that had gone into it in the first couple of years were exactly the same people. But the Smith Fellows are going to be brought to Washington and really trained in the latest theories of advocacy and poverty law and we're going to up the ante and bring lots more test cases at the big level. This is still part of the thing, we're going to end poverty in America by law.

So suddenly, because we're a Bay Area program and everybody wants to come to the Bay Area, our little program with three offices and eleven lawyers is going to get—one day we don't know a thing, the next day in comes a letter from Washington and they're giving us three of these Reginald Heber Smith fellows, all of whom are supposed to be doing nothing but the sexiest cases. Well, I'm just apoplectic. I'm just furious. I'm paranoid, I'm going nuts over this. "Wait a minute. I'm your superstar lawyer. We started a desegregation lawsuit against the city, as it turns out, one of the big ones in the north. We've done this cool case we've done that cool case. It's usually my energy that's behind a lot of the stuff," not that the other lawyers in our office aren't smart and hardworking. "Wait a minute. So these people are going to come in. I'm going to have to stay in this neighborhood office and watch them play." The first time you did a divorce it was really exciting. After about a thousand.

So I go nuts and say, "If this is going to be the way it is, I'm going to quit." And so Gene Swan, who's the director, a couple years older than me, African American who had graduated from Boalt but also had a master's degree from Brandeis in economics. Gene is a really smart guy, but little bit lazy in terms of the Legal Aid program. He was always teaching three courses around the Bay Area and gradually letting me sort of more and more run the thing. I go to Gene and say, "Okay, I'm out of here if this is the way it's going to be." He says, "Okay. I'll set up a separate unit and I'll put these three guys under it, but you'll run it. So I'm out of the neighborhood office." Downtown Richmond, the old downtown, which had been viable in the twenties and thirties, had now been surrounded by poor neighborhoods and was completely

falling apart. Everything would later move out to Hilltop. But you still had a downtown. Macy's had moved out, Penny's was moving out, the hardware store was closing. So it was easy to rent more space for practically nothing. So we got somebody's old law office with, oh, god, like eight or ten offices in there on the second floor over a paint store downtown, which was about two or three blocks from the old house where the neighborhood office was, where everybody lined up to get their routine services.

So we roll over to September of sixty-eight, and suddenly I'm in charge of what I think we called the Special Projects Unit or something like that, and there are four of us who are going to do nothing but create havoc for the county, and bring these test case stuff to establish the rights of low income folks. The case I described about the landlord thing, just try to change the law, was typical. We were totally involved in this desegregation case in Richmond. The schools were totally segregated. We brought a suit against the school district, which ran all the way from Pinole to Kensington. The school board had always been Point Richmond, El Cerrito Kensington liberals who had gotten elected because nobody even bothered to run against them from out in the conservative, as it was turning out to be, sort of born again areas out in Pinole.

So nobody had had the guts to really do bussing in Richmond because of fear of pushback from white traditionalists. In the north, Boston had been happening. But once we sued them, the liberals in the school district basically behind the scenes were whispering, "Hey, we're on your side. We're on your side." So we sued in state court, got a temporary injunction against the continuation of Verde School out in North Richmond as a 100% black school. The school district and the superintendent just rolled over. "Oh, you won. We're going to have to desegregate the whole thing just because Legal Aid brought the case." Well, this was a really good example of trying to do community engineering from all these kid lawyers who have just been sort of dropped in to Richmond. The result was that immediately the conservatives, the poor white folks, many of whom were now firemen or real estate people, who were desperately afraid of low income black folks because they had all come from the south kind of thing, organized a recall of the school board. The election went from three or four thousand or 5,000 people voting in a typical school board election, because nobody even paid any attention to this ballot list, to suddenly everybody in West County is voting. And all the liberal members were recalled. Boom. Like just in a matter of a few months everything changed. The people who were substituted were all people who had not graduated from high school, in a couple of cases, but were just born-again, angry, white conservative people who had made it sort of the hard way and were angry at African Americans. They immediately fired the county counsel who had represented the school district. We'd been up against sort of mediocre opposition before.

Anyway, suddenly they hire a big fancy Oakland PI law firm which puts about five lawyers on our desegregation case and moves it to federal court. It's very exciting. We're suddenly having this big battle in federal court. All of us are working madly on it, fighting over who's going to argue in front of the judge. The end of the day, our ace in the hole was that the ghettoization in Richmond had not occurred by accident. Because if you didn't have state action as you did in the south where blacks were required to go here, whites there, there was no mandatory desegregation because wait a minute, in the north this had just happened, so the argument went. Voluntary segregation wasn't constitutionally prohibited. You couldn't win that case. But our ace in the hole was that there were racial restrictive covenants in all the local deeds in the twenties and thirties, which really explained why all Japanese Americans or most Japanese Americans in the East Bay lived in El Cerrito and many still do. Because they couldn't buy in Richmond or Pinole or I think at one point even in Berkeley, pretty much, because there were all these racial restrictive covenants in the deeds saying you can't transfer the property except to whites.

Well, the result of having those in much of Richmond had forced African Americans to live in North Richmond, the Iron Rriangle, and just a little bit on the south side after the war. That was the only place where they could buy. So although these were private deeds, our theory was wait a minute, this was enforced via the courts. The state courts had supported this. The law of California had supported this system. So basically, this was a system that was blessed by the state, or so we claimed.

05-00:48:22

Stein: By the state. Did it make a difference? Because restrictive covenants were deemed unconstitutional in forty-six, right?

05-00:48:28

Warner: Yes.

05-00:48:29

Stein: Did that make a difference in the neighborhood?

05-00:48:31

Warner: Not really because in the fifties, they were still all in the deeds. In theory, they weren't enforceable, but the fact of the matter was that prejudice in the real estate business and, to some extent low income minority people's affordability meant there was just nobody who could move in the fifties from North Richmond to a white section of Richmond. Didn't happen. Eventually, that started breaking down. But anyway, the patterns that had evolved in the school district had really gone back to the thirties and immediately after the war when the deed covenants were still legal. So anyway, we lost the argument. A federal judge found that this wasn't sufficient state action. We ended up, at the end of the day, with a school district that was just as segregated but now run by crackers who immediately banned Sesame Street and stuff like that from being shown in the public schools because it was too

liberal. They also ended sex education entirely in the district. So you just have to sort of learn your lessons on that one.

We did some interesting things in that special project unit and one of them was suing the whole county on the juvenile hall, which had worse standards at that point than San Quentin, because it was an old building. Yet, remember this was 1968, 1969 and loads of kids were starting to run away from home and the hippie thing was starting. So in the summer, they would have like 500 kids in a space for a hundred, four people in a room sleeping in mattresses on the floor. I bonded with a kid, a very extraordinary sixteen year old kid who had been sent to Synanon before Juvenile Hall. She was kind of the 200 IQ kid stuck in a partially paralyzed body who completely couldn't cope with any authority. She ended up in the juvenile hall and began organizing the place, getting a social worker to call me. Her social worker called and explained that there was this extraordinary kid who was like the prisoner's lawyer sort of Juvenile Hall. I went out, ostensibly to just meet with Elaine Kowell about her own case and ended up getting from all these kids, probably many of them exaggerated, but about how they were treated. I put together this lawsuit based on the county abusing kids. It leaked out through probably Gene Swan to the county Board of Supervisors as to what we were doing. The Chief Judge of the Supreme Court and the head of the Board of Supervisors called me in to this secret meeting and said, "If you don't file this lawsuit and embarrass us, we'll tear down the juvenile hall and build another one." I mean, my god, this was like millions of bucks. The first time I didn't kind of believe them. They wouldn't do it fast enough. My god, we were such indignant kid lawyers. "You need to do something now" I argued. So anyway, we filed the lawsuit anyway. Got Bay Area headlines because we'd done all these kids affidavits and compared the standards to San Quentin so it became this huge cause celebre. We ended up losing the case on a technicality because the only way we could bring it was as a class action. Basically, the courts were desperately afraid of establishing a principle that prisoners could sue about bad conditions anytime they wanted to as a class or group. So basically, you had to sue as individuals, but of course, then they would just find a reason to get people out of the juvenile hall facility and moot out the lawsuit. Anyway, that was all a couple of years later in the court of appeals. It was all sufficiently embarrassing that they in fact did immediately set about building a new juvenile while, of course, denying all our charges.

By about my third year in Legal Aid, the things that I started seeing about the wheel spinning parts of the legal system began getting to me. "I think I've done this long enough," I concluded. But in the meantime, I still have these kids to support. Jean has managed to sneak them out of state, my god, to Montana. She's remarried this Vietnam vet who turns out to be slightly nuts. He's an art student. Under the pretense of going up and doing some summer study thing in Montana, they actually move there and he ends up going to grad school. I don't even figure out what they're doing, because I could have opposed the moving out of state, but they've already done it. But every step of

the way I've decided, "Wait a minute. Doing the traditional thing and fighting over stuff like custody and whatnot is just counterproductive." I'd seen enough of the courts, and especially the system at the time, to know that all it did was victimize people. So I basically just said, "I'll get to Montana. I will just get there all the time. I'll fly up there every month." I wrote stories for the kids, sent them stuff. Ann and I went up that summer, took them to Yellowstone for a month.

But without going into the personal side, Ann and I were just the most miserable couple that existed. We managed to stay together for a couple of years during this Legal Aid point in time. Had started out trying to live in the ghetto in San Pablo to be part of this whole thing, which really made Ann depressed, even though she had gotten a job as a social worker and was part of the union. She was being at least as radical as I was, having come out of the social work school at Cal. Eventually we moved back over to Albany on the Berkeley border and that made things a little better. In the summer of 1967, I had gone up with a couple of male friends and done this backpacking trip, the first time I'd ever been in the high country, and just, as a lot of people did at that time, just fell in love with it. Just understood religion. I was an atheist but I had a new religion. It was the natural world, right. It was pretty cliché in the sense the whole world was moving towards Earth Day. The Sierra Club had gone from a teeny little cult group of climbers to the biggest environmental organization in the world. Sierra Club calendars were invented then and exhibit format books put together by David Brower. So I just had joined that. Ann kind of liked it, too. So we actually had a happy space. Once we discovered that in about the end of sixty-seven, every couple of weeks we'd be up in the mountains. Every day off would be a three day backpack trip. Total happiness was starting in Tuolumne Meadows, crossing over the high peaks and coming down on the East Side of the Sierra five days or six days later and then hitchhiking around to get the old Saab and whatnot. It was do a lot of that and trying to get up and visit the kids whenever I could.

But on the social side, the world was going nuts. It was just turning psychedelic everywhere. People were getting just high everywhere. The anti-war stuff was unifying everybody. Gay folks were coming out of the closet. The Castro was born. It was unbelievably exciting. Having a radical law job was kind of on the edge of that part of it but I wasn't the only one who was yearning to join the social part of the Revolution. The *Berkeley Barb* was this funny little newspaper, left-wing newspaper, but half of it was about nude beaches and pictures of naked people in communes. Ed Sherman and I, who later did Nolo with me, we started coming over to Berkeley and teaching free school courses for people who were setting up communes. We'd never been to a commune but we were so attracted to the idea that we just started with basics like do you own the land as a group? How do you do the stuff? We were trying to figure out the legal part of it.

Ed started doing some stuff on how to do your own divorce, which was really the pioneering Nolo thing, at the Berkeley Food Co-op, believe it or not. They had classes. Ed figured out if we could do divorces ten or twenty at a time in Legal Aid why not write down the instructions. All that stuff was kind of happening in the background. At the same time, I'm thinking, "I've done this job long enough," but I can't figure out what other kind of job I could get. I certainly didn't want to go out and be a real lawyer. I kind of had this crisis point of, "Well, if I don't like exactly what I'm doing, but I'm really interested in environmental stuff, and if I was going to get a law job it would be in some kind of environmental movement." But for the most part environmental groups didn't really have paid lawyers yet. Witness the story about the air pollution job with HEW.

So I said, "Okay, I'm going to make the job here." Since I'm the head of the special projects unit, "my special project for the next year or so is going to be environmental poverty law." I think I just kind of invented it. Later, other people did that and there have been several environmental organizations based on low income communities. But the first big thing was air pollution in North Richmond. The refinery in those days had just basically no controls whatsoever. Every two weeks, people would come out and their cars would be a quarter inch deep in white crap and the air was hideous. There was a Bay Area air pollution control district, which turned into the air management later. But it basically had very little authority and did very little. It had no monitoring stations in low income areas whatsoever. I knew a lot of people in the community who were totally pissed off at this. This turned out to be something that you'd have one meeting and a hundred people in North Richmond would show up. I kind of coalesced the idea but it had a lot of community thought. So we got busses and started taking low income black folks to the air pollution control district. Well, you can imagine that there'd never been a black person in the room before. So this got huge press coverage. In the beginning, we were really pretty successful. We got monitoring stations out in North Richmond. The monitoring stations showed the air was full of crap, of course. There were starting to become environmental groups proposing national standards of lowering sulfur dioxide and particulate matter in the air, so we just grabbed a hold of. Suddenly the air pollution control district started passing tougher restrictions. All this would have happened anyway eventually. But it was just fun to be at the cusp of it and I was totally excited again.

[End of Audio File 5]

[Begin Audio File 6]

06-00:00:00

Stein:

All right. July 9, 2009. I'm here with Jake Warner. This is tape number six. I just wanted to ask you really quickly. You've been talking a lot about your work with poverty law. Before you started working for Legal Aid, did you

have an understanding of poverty in America, of the changes to Richmond after World War II?

06-00:00:28

Warner:

No, I knew nothing about it. The whole Rosie the Riveter shipbuilding thing, I basically didn't know anything about it at all. Maybe had a little hint because I lived in wartime housing, and I knew that had housed ship workers, when I was going to Boalt. But no. I don't know much about what happened in America in the 1940s. I have a larger theory in the mid-sixties, where a whole lot of things just blew up out of nothing. The environmental movement had sort of been there but had been the preoccupation of one or two percent of the population, if that, who belonged to things like the Wilderness Society or the Isaac Walton League or the Sierra Club. Poverty law, forget it before Kennedy did the Peace Corps, I don't think the average person even knew the rest of the world was poor. It was maybe sort of picturesque. The movies in the fifties were all about a Flower Drum Song kind of world or something. But suddenly, using the Peace Corps as sort of a parallel, the idea that young people were going to be of service and improve the world, I think was something that was not thought about by the post-war generation who had grown up in the thirties and just wanted to support their families, have a little affluence, not be so slammed by the Depression as their parents had been. So people came back from World War II and lived the clichéd life. Went out and built Levittown after Levittown, subdivisions, bought refrigerators and cars. But their kids, who were the Baby Boomers, had suddenly grown up with getting their teeth straightened, enough money, and two television sets. They were suddenly ready for something else. The result was that when any "change the world" cause came along, people signed on in droves. They didn't necessarily need to know a lot about it before. People joined the Peace Corps ten seconds after President Kennedy said, we're going to send people here, there, and everywhere to make the world better. Legal aid was kind of like that. It was mostly upper middle class kids from elite law schools, some of whom had radical parents and some of whom moved into leadership roles in the student protest movements, had some experience as sort of red diaper baby kids. So no, I didn't know much detail about poverty in America, but it didn't seem to make any difference. You'd get dropped into Richmond and you were sort of running forward.

Well, one of the reasons why a lot of the war on poverty stuff failed so abysmally, I think, was exactly that. Because it wasn't really coming so much from the community, it was Lyndon Johnson and a bunch of people in Washington deciding, "Well, the country should be less poor," and so inventing all these programs. Legal aid, which is still around, worked better than a lot. A lot of other programs were just pouring money down a hole. They funded all kinds of wacky things in ghettos around the country that at the end of the day really didn't change stuff very much.

06-00:03:44

Stein:

Did you have any sense, like living in these communities and spending so much time with them, what they wanted? Was there another set of ideas?

06-00:03:52

Warner:

I think economic development was probably the number one thing. They wanted the American dream like everybody else. They didn't want the radical kids' notion of nirvana. They wanted cars, refrigerators, a nice house in the suburbs. As soon as people started succeeding a little bit they tried to move on and there was this interesting thing that started happening in ghettos about the time I was there. Because there had been so much discrimination in America, my version of history is there was very little way out of ghettos, even for very talented people up until the 1960s. Doctor, lawyer, entertainer types would move into nice houses in the marginal ghetto, in New York and Harlem. But your ability to move to Rye or whatnot was very little. So the leadership stayed in the low income areas. The smart people stayed there and you had a very powerful, small but powerful, upper or middle class in black communities. Well, starting in the sixties, those things started breaking down. As you said, the racial restrictive covenants really weren't the law since forty-six, so now a black law professor at Cal could move to Bienvenue Street in Berkeley. So the talent started leaving ghettos quickly. Young people who one minute were going to a segregated high school but were the smart kid were now being recruited by Cal. People were coming down and saying, "Oh, my god. We need more African American students so c'mon over and register." So it created a lot of craziness in individuals who were suddenly, whether you called it affirmative action or whatever, sort of yanked into an entirely different world and suddenly had to make sense of an entirely different one. But it weakened poor areas a lot. So the idea that you could do economic development in the late sixties in the ghetto was laughable. Remember this was when a lot of manufacturing was starting to move overseas, just the beginning of it. So no, you really weren't going to open factories that were going to succeed in very poor areas where education levels were poor. It just never really was going to happen. But people wanted the American dream. Legal aid was popular and people wanted lawyers. Anyway, I get involved with model cities which was a big part of the War on Poverty a lot more later, so I can talk a little bit more about that. I'm not sure I have any special insights on it.

By my last year in legal—we're talking 1970 now—Ann and I get divorced. Split up. We actually are so unhappy we decide, "Well, we need to do some kind of therapy or whatever." What was popular at the time, or just becoming popular, it was just the beginning of it, were encounter groups. Synanon, which had been the earliest anti-drug program that had succeeded, had taken heavy duty heroin users and ex-cons and isolated them in these Synanon communities. The center part of it was something called Synanon games.

06-00:07:20

Stein:

Synanon?

06-00:07:21

Warner:

Synanon games. That was a kind of radical form of group therapy where you were really allowed to, in a sense, attack other people's little identities of themselves, which in the case of a lot of addicts was just completely bullshit. So you would sit in a group and somebody would sort of, in a sense, be on the hot seat one way or another and telling all their stories about their life. The other people who knew better would crash through. Well, suddenly, those games somehow became popular beyond the druggie community. Synanon tried to reach out to larger communities to create support. So they started their games in the city but I don't know what exactly the connection back to the drug community was. Doing these games that other people could join. By 1970, you could just sign up at the YWCA near Cal, Stile Hall to do what were called personal encounter groups. You'd sign up and you'd do this for ten weeks and the sessions would be three or four hours each. Start at seven o'clock, go to eleven. In the format I did it, it would also involve a weekend.

Well, Ann and I started doing couples groups. This was very early on. Later, Est took this and made it like a national phenomenon by commercializing it. But in the early days, it started in San Francisco and moved over to Berkeley. Mimi Silbert who later started Delancey Street in the city still runs it was co-director. Mini was a luminous character. She was like the twenty-eight year old newly minted PhD in psychiatry and she and this other guy had applied to NIH in Washington. They had funded the idea as an interesting way to do community mental health. In those days, there was a lot about of closing down of mental institutions so people were looking for an alternative. Everybody was reading Lang and a whole lot of other people about it's society that makes you crazy, not yourself. All of a sudden, if we just can kind of turn our priorities around a little bit, we'll close down the mental institutions and everybody will be fine. It was really kind of the beginning of homelessness in to a big degree in America.

So they get this grant in Berkeley through the YWCA next to Cal. Suddenly have a lot of federal money. Two young psychologists are suddenly training people to lead these groups. At the same time, they're just throwing it open and anybody can sign up. Well, who signs up are Cal students, grad students, young professional types. I think at one point it had included seven Nobel Laureates. So Ann and I hear about this and they have some couples groups.

Well, sixty-nine, we go over there and we're in this group with six or seven other couples, all of whom, as it turns out, are just as miserable as we are. Remember, we're married but the whole world is turning toward free love, free dope. Telegraph Avenue has not gotten as seedy as it is. It's sort of just psychedelic. People are just really wandering around Berkeley on acid trips. All the radical politics, anti-war stuff. The Castro in San Francisco is starting. It's an amazing time. We're sitting in these groups talking about how miserable we all are. Well, I think everybody ended up splitting up within about a month after that group and that was kind of our excuse to really talk to

each other honestly. The thing about encounter groups is suddenly you peel off these layers, you look over across the room and say, “Gee, I’m way more attracted to you than I am to you.” It was a weakness of the whole thing. Be here now sometimes meant, in the larger sense, be totally confused and miserable. But that was the slogan.

So Ann and I split up in the winter of sixty-nine, going into seventy. I, through some of my backpacking friends, know a couple of people, other guys who, in both cases, had gotten divorced who were about late twenties and they’re looking for a roommate in a brown shingle house on Benvenue, down by Ashby. A lovely place in South Berkeley, maybe three-quarters of a mile from Cal. Whoa. There I am. It’s kind of hard to face the fact that I’m by this point twenty-eight, I’m now divorced twice, I have two kids.

But the encounter group thing—and I’m just going to talk about this for a second—I just absolutely loved the process. I didn’t love the process of breaking up with Ann, although we never should have gotten together probably in the first place or gotten married. I immediately sign up for another encounter group. It’s kind of as if you’ve never really looked at yourself in a certain way before and it’s also happening in a time in my life where I’m twenty-eight and I don’t believe in astrology, but astrologists believe that you, in a sense, live three lifetimes and you don’t get any wisdom at all until you come around the first time, which is twenty-eight, and then you start your next cycle. So I was right at that little cusp of being a little more relaxed with myself, being able to be a little less needy, being fine with being alone. I was determined that I was not going to get married to anybody maybe ever again, but that I was just going to, actually, for the first time in my adult life except the little brief thing in Arizona, kind of live by myself. I was a little retarded here.

So I start doing this encounter group. There’s maybe twelve, thirteen people in the group, fourteen maybe, and everybody’s in their twenties and everybody’s attractive. In this particular group, there are these incredibly beautiful women. So within these two meetings, people are either looking in my eyes saying, “Gee, I’m really attracted to you,” or I’m looking in their eyes. It’s the kind of thing where you can go from having this sort of intimate conversation to actually taking your clothes off and going into the other room in about a half an hour. Maybe not literally. Doing these groups was just a series of falling in love, being madly in love for about three weeks, then falling in love with somebody else. It sounds like I’m just the wacky one. The whole idea of sexual freedom I think had been tormenting me for a couple of years, being married down in Richmond. Ann and I had a couple of close friends who were going through a similar trajectory. Got divorced about the same time we did. But previously, we would all get together. We were just in our twenties and get stoned. All we wanted to do was screw each other but we didn’t quite know how at that point. Later, everybody figured out how. But suddenly I’m

in this environment where the rules are all kind of gone and I'm loving it. I'm just having the best old time. But hey, I'm still working.

The big project of the last six months at Legal Aid, the thing outside of Nolo that I'm probably the most proud of, involved what now is Point Pinole park, which is this big park on the north part of San Pablo Bay which connects to San Francisco Bay. It was the biggest open space area on the Bay, now as then, but it was owned by Bethlehem Steel. During all these air pollution fights in Richmond, I'd made friends with three women who should have been in the hippie generation but weren't. They were in the fifties generation. Jean Siri, Barbara Vincent and Lucretia Edwards who were Sierra Clubbers. Jean Vincent and her husband had helped Start Save the Bay. They'd been involved in environmental stuff since the forties. Jean Siri's husband, Will, at that point was president of the Sierra Club. He had led the first American Everest expedition that succeeded. He was like fifty at the time, so he didn't get above 27,000 feet, but it was the first expedition that summited and they did the Sierra Club book about it. It was like in maybe sixty-three, sixty-four. Will was just this amazingly charismatic guy. All these folks had found me and showed up in my office when I started doing the air pollution stuff and introduced themselves and just adopted me, because suddenly, all these things that they'd been trying to do, parks along the Bay, the refinery, I was kind of, in a sense, their magic bullet because they had had no way to connect with the African American community, and suddenly I did.

They had been working for years on this project of making Point Pinole a regional park, this big, empty hunk of land that stuck out into the Bay, which had been planned by Bethlehem to be their biggest West Coast integrated steel facility, kind of like Sparrows Point in Maryland, but it was sitting there ready to be developed. It was very much like the Presidio, in San Francisco, a military base. It hadn't been precisely a military facility, but it had been an outdoor place where they made black powder, starting back Civil War days, for gold mining. It had been owned by the Hercules Powder Company, and they had these big bunkers. Like prehistoric. Walls of dirt built around wooden frames that were big enough to drive a couple of railroad cars into with tracks, and they would make the nitroglycerin based powder. If there was an explosion, it would just kill the one or two people that were working on it inside the particular bunker and not spread. They'd been making powder there forever, but technology had changed. There was new way to make explosives. So that had all closed down ten or fifteen years before. There were some cows grazing out there.

Right next to it was a place called Parchester Village, which was past North Richmond along the Bay. It had been this tiny little subdivision that somebody had built in the fifties that hadn't worked and so became a welfare level community, very isolated, totally African American. I went out through my friends in North Richmond, a guy named Fred Cassanaros and Willy Dorsey and met with a lot of people in the community and said, basically, "How

would you like this place to be a park?" Not surprisingly, they didn't care that much about environmental stuff or the larger place. What they wanted was a recreation site for community kids who had nothing. There was no playground, nothing. So I said, "Okay, put that together." We came up with this idea that the East Bay Regional Park District should buy this place. They were interested enough but they had no money to buy. Bethlehem was not selling. They were going to build a steel plant there. My clients really didn't want a big park, they just wanted a nice play area on an acre or two.

One thing led to another, and right at that time, the Japanese steel competition had been on the rise and Bethlehem was, unbeknownst to us, deciding they weren't going to build a steel facility there. But we had started organizing, me and the community. The Sierra Club people had been on this for years. But somehow or other, I became the head of the Point Pinole committee, which consisted of the Sierra Club, Save the Bay, the Audubon Society and the local neighborhood group. I just invented it. We appeared before all these meetings. There was a guy named Kent Watson in the Sierra Club who was kind of my partner in this, along with Jean Siri and Barbara Vincent, and then Willy Dorsey and the people in the community. So anyway, the Point Pinole committee was a separate independent little organization that got authorization sponsored by the Sierra Club, then Save the Bay. That's when I first met Kay Kerr and the two women who founded Save the Bay in the early sixties to stop shopping centers and airports in the middle of the Bay. And the Audubon Society. The Bay Area of the Audubon Society were Mary Jeffords and other people who were involved. I also met a really luminous woman who's still alive and still very active. Sylvia McLaughlin, who had been one of the founders of Save the Bay and was big in the Audubon Society.

I put them together with Willy and Fred and all the folks in the community and the black churches, and we had this white/black coalition. We put out pamphlets, bumper stickers, all in a six month period. Will Siri and I, the president of the Sierra Club, because he could get the appointment and I couldn't, called up the head of Bethlehem Steel's operations on the West Coast, and requested a meeting. He was so anxious to meet the guy who had led the Everett Expedition, he actually took us to lunch at Sam's Grill in the city. It was like right out of the forties. Two or three martinis before we'd get down to the point. Will and I are sitting there and we basically say to him, "Look, we can do it the easy way or the hard way. We're taking that land. You don't have a chance. We're going to be so organized that anything you try to do out there is going to take you twenty years and cost a billion dollars." The power of organizing in those days when it was fresh was amazing. People had done like Point Reyes, for example, and fighting dams in the Grand Canyon. Well, this was just a Bay Area thing and it was a park on the Bay, but it was a little like that. We were taken seriously, especially since we had this coalition. This fight continued for the year or two after I left Legal Aid, so it wasn't all in 1969-1970.

Eventually, the end of the story is that Bethlehem decided they weren't going to build the steel facility. We were so well-organized that the possibilities of selling it off for real estate development at that moment seemed unpalatable to them and they suddenly became willing to sell. The East Bay Park District managed to go back and line up money from the Department of the Interior through grants from whatever federal land acquisition programs were available to get like five million bucks. They were about a million bucks short. The federal programs required local matches. We're trying to raise this money. It was a lot of money. So people contributed a little bit but not enough. But along comes Sylvia McLaughlin, the Save the Bay founder, who was married to Donald McLaughlin, who was one of the biggest donors to Cal, a very wealthy family. So she was connected. She was on the national board of the Audubon Society and flew back to Washington all the time for meetings. She realized that this guy had died and left the Audubon Society this fund of money. The hilarious thing about it was that this was for nonprofit purposes. This is going to sound like total bullshit but it's nevertheless true. The guy had left all the money to the Audubon Society even though he'd never really been involved in conservation at all, because it came to him soon before he was going to die that he was going to be reincarnated as a duck. He believed in reincarnation. Somehow he got the idea. So he had left this money to the Audubon Society out of the blue, millions of bucks, to protect habitat for ducks. So the Audubon Society, Sylvia got them to fly somebody out. We all went out to Point Pinole and we're looking for a duck. Finally we found a couple of those little black scooters.

06-00:24:45

Stein: All you need is one duck?

06-00:24:45

Warner: Yes, just a couple of little scooter things that dip their heads and dive. "Oh, okay, fine," The Audubon guy said, "we have one duck." But of course at that point any duck would do since everybody loved the land.

06-00:24:53

Stein: That's amazing.

06-00:24:53

Warner: It wasn't like out in the Valley where on the flyway where there were thousands of ducks, but it was ok, so the Audubon Society kicked in hundreds of thousands of bucks or whatever to meet the match and it got all put together and now today Point Pinole is this lovely regional park of four or five hundred acres that sticks out in the Bay. I just sort of happened into it. I was kind of like the person that stands on the shoulders of the person that stands on the shoulders, but then I kind of made it happen. It took about three years all together, but it was exciting.

06-00:25:25

Stein: Did you loop back with the community after they got their park?

06-00:25:28

Warner:

Well, we did. As part of it, we insisted that in addition to open space that they build like a tot lot play area right next to Parchester. Then the park sort of started. So yes, the play area did happen.

Anyway, so about now, we're in 1970. I'm about on my third encounter group, falling in love with my tenth incredibly beautiful woman. A couple of these people are married still and I'm their special relationship on the side. So I get to be totally in love with somebody that I only get to see once a week while I have time to go out with other women. In fact, Carol and I, she was a social worker in Richmond, used to sneak out to Point Pinole before it was a park. I liked it really better before it was a park. We'd make love on the beach in the summer because there was nobody out there. I was a little bit looking for ways to have relationships with people who weren't going to get me just married again. A couple of times I kind of screwed up in the sense that I would become involved with women who had kids. A month or two later, you're going backpacking with the kids, but wait a minute, I don't want to get married. So then, oh my god, you're realizing you're maybe screwing around with the lives of kids. So I kind of made up some rules as I went along on this, which were probably very common at the time. This was so surprising, because people think that a lot of sexual freedom stuff is driven by men's imaginations. But it was kind of like the more I say I'm kind of a worthless guy to you in terms of forming any kind of serious relationship or a long-term bond, so let's just get that out of the way in the beginning. I just kind of want to have with a lot of different people. So in a way, its like saying see you later before we start, because I think you're maybe looking for something else. Well, it turned out that lots of women weren't looking for something else, and the more I said I was kind of a slut, the more people would climb into bed with me immediately. It was just hilarious.

I was born in forty-one. The Baby Boom really started going at around forty-five and forty-six. Every year, vastly more people were born than the year before. It was really just spiking up quickly. Women particularly select for guys that are a little bit older. The number of guys who were three or four years older than this huge spike in women was tiny. So every year until the Baby Boom peaked and went over the other side in the mid-fifties or something, more women were born. In addition, it seemed as if in the Bay Area, suddenly about twenty percent of the men had become gay overnight. The Castro was really attracting people from all over the country, of course. But in terms of doing political stuff, or running a Legal Aid office or dating, the luck of the demographics meant that I sort of always was like one step ahead of the baby boomers. Most of the people in my college class had gotten married after going to college, settled down, gone to law school, joined the law firm. But the five or ten percent of us who had in a sense got pulled back into the next generation were often in places of sort of leadership very easily. Most of the people that did the Free Speech Movement and campus radicals around the country were a few years older. Your Mario Savio's and on and on.

So that was just kind of a demographic accident that probably made a lot of the things that I got to do at a very early age possible. People that were five years behind me at Boalt, they came in and they wanted to do Legal Aid. But by the time they got there, there were already ten or twelve people ahead of them. The people that were working for me as law students, and then some of them who kind of came into Legal Aid later, they were starting at the bottom of what had already become a little hierarchy. It wasn't like a law firm hierarchy. But nevertheless, I felt like over and over again, as with this encounter group thing, if I didn't get there the first day, I got there on an early day.

The encounter group thing led to, to loop back to a much earlier part of my life, my getting pinned into the corner on a million personal things. Getting stripped of all kinds of bullshit craziness. People who go through analysis or whatever for a long time and felt like oh, my god, they burst out being a different person. Part of that was confronting the fact that I didn't know my mother. I'm sure I would have confronted this much earlier if I'd been back east, but remember, as a kid I'd been denied it. Then my father never spoke my mother's name. My grandmother was opposed to kids' involvement. Then by the time I was a teenager, I probably wouldn't have coped with it very well. You're going to take a thirteen or fourteen year old and meet somebody who's really certifiably completely crazy? Who hears voices and is in a state hospital? So I think nobody thought that was a good idea. Then I'd come to the West Coast. Suddenly, as part of this encounter group, I'm calling up my uncle who lives close by the state hospital in Long Island, out by Bay Shore, and saying, "Hey, I got to come back there and meet my mother and you've got to take me."

06-00:31:42

Stein:

How long had it been since you'd seen her?

06-00:31:45

Warner:

I had never seen her since a few months after birth.

06-00:31:45

Stein:

Never? Oh, okay. You were a tiny baby the last time you saw her, right?

06-00:31:48

Warner:

Yes. When I was born obviously. And there were a couple of months before she was hospitalized. Never since. So I have to go back there. I do go back there. I have to go back there. It felt like that. My uncle takes me out to the hospital, is basically sort of holding me up to meet Elaine. She's able to kind of go out. My grandparents were by this time living in Omaha, Nebraska, they'd gotten really old, because my aunt had moved there. But they had moved from Brooklyn out to Long Island near the hospital to try to take care of her better for a number of years. But now it was really only my uncle—a neat guy, but not a caregiver type—who was trying to cope with this. So I think he was probably really glad that I showed up. This was way, way past

time. In fact, nobody had really ever suggested it to me. So anyway, we go out and spend a few hours driving around in the car and she's mostly mumbling. She has her head under her shoulder. She kind of can't look at me. She's chain smoking cigarettes but is more or less lucid. She actually had all this shock therapy and also a partial lobotomy. Yes. She's just maybe early sixties but looks like eighties kind of. So I've just got this very strange, very crazy old lady who I'm sort of trying to bond with. And we sort of do. She's just lucid enough to know I have kids and sort of ask about them and we have these little funny conversations. We spend a couple of hours driving around, take her back, and then she and I start writing to each other. And that's much better. Now and then she'll write me an almost lucid letter. Sometimes she'll start writing on the page in the middle and she'll write three words and all the rest have disappeared into air. Kind of they're not there. So you basically can't make deep contact. So I will send her pictures of the kids and little stories about her grandchildren. Just try to be nice. So in a lot of ways, this is pretty satisfying for me because it'd buried this whole relationship, almost pretended it wasn't there and I referred to my parents, my stepmother as my mom.

She'd gone nuts at 27. I was born when she was twenty-seven, twenty-eight, and I had just passed that age. So I think secretly I'd always been afraid, especially since I had this fairly checkered personal life, that basically I was nuts, too. Well, somehow I passed that age, confronted this sad fact, formed a relationship as best I could. It was just sort of personally freeing. As part of doing this, about the third or fourth encounter group that I did, one after another, they had this leadership training thing. The whole idea was the world doesn't need psychiatrists and psychologists. Personal growth doesn't need to be top down. It needs bottom up. So at the end of each of these groups, people would put down who they thought would be a good leader. So suddenly I got put down and I got asked to do this leadership training thing which was one of the most fun things I'd ever done, because they relied on Esalen methods. There was this guy named Fritz Perls who was just this sort of amazingly charismatic figure, kind of a German Jewish guy, psychologist who had come to this country, maybe he was in his fifties or sixties and he'd written these amazing books about personal growth. The word of the day was gestalt. Gestalt psychology. Everything is in the present. Be here now. Be present. Shit or get off the pot. Suddenly, for the first time ever, I also got introduced to people who were doing movement stuff, and physical movement, even dance was suddenly part of therapy. This was like when yoga was starting to get really popular in America.

So every week we would have some incredible person who was a legend in the personal growth movement come in and do these workshops for our little leadership training group. At the end of the group, whoever was coordinating it, but basically the people in the group, the leadership training group, decided who would go on and actually be leaders and who weren't quite ready. So that was amazing because some of the people that I thought were way more

evolved than I was were, in a sense were, pushed aside at this stage. Three or four of us went on. “Oh, my god, I’d gone in about two years from not knowing anything about this to now going and having this amazing assemblage of people come to Stiles Hall. You could either hold groups at Stiles in these rooms that just had nothing but rugs and pillows, but as part of the NIH grant could be filmed through a clouded window. Sometimes there would be a video tape, sometimes there wouldn’t, but you didn’t know. Or people could pay a little more and be in groups that met in people’s houses because they didn’t need all of them to be on video. Oh, my god, forty or fifty groups starting at a time. Maybe I’m exaggerating. Certainly thirty. A lot of people who were leading them did it for a number of years. It was so much fun. They would need you every round, with four or five or half a dozen new people each time experienced leaders get tired of it and moved on. You weren’t getting paid. You were just doing it for fun.

06-00:37:45

Stein:

And as a leader, were you more of a facilitator or were you an active member of the group?

06-00:37:49

Warner:

You’d sit on the floor with everybody else in a circle and people would go around and kind of introduce themselves and why they were there and people would start talking. It would typically turn out that people would reveal themselves very quickly as to, in a sense as to what the barriers were that were making them sort of miserable. Somebody would start talking about their life and they’d mention the word insecurity three times or something. As a leader, you’d just sit there and wait. Somebody would say, “You know, you’re a really terrific person, but I think you’re a little insecure.” Then they’d start in on it. But people revealed themselves quickly. It was sort of why they were there.

06-00:38:35

Stein:

Did you participate in the group as a leader, too?

06-00:38:36

Warner:

Yes. We learned a lot of stuff about role playing. Somebody would be going on and on about their—these are twenty-five year olds—about their parents and how they had fucked them up and had made their lives miserable. Well, you’d get somebody to play the father or you’d do this thing getting the person who was upset to play both parts. The pillow would be the father. They’d be talking to the father and then you’d reverse roles. People would have, at least in the short runs, these amazing sorts of breakthroughs and a lot of people would do things like I did. Reach out and make a contact. It was kind of beautiful. When Est took it over and it went sort of national and big time and became all Werner Erhard stuff. But he had basically just copied and ripped off the basis of this from programs like this one at Stiles Hall.

One of the things you learned was how to be very direct. The people that did the best in this would be able to look at another person and say, "You frighten me and here's why." A lot of people were there, frankly, just to get laid because you could just be in this environment with a lot of people and it wasn't quite dating, because there was this other purpose, but you were going to be in this environment where there was a lot of freedom and you were going to meet attractive people. It was very possible to look at somebody and say, "I am just so amazingly attracted to you. I would really like to make love right now," as I said. Unlike some kind of going out to a singles bar kind of thing where this could take months, and plus somebody might just throw something at you, in this environment it was safe and easy. Also there was a weekend as part of each group - you'd go away for these couple of days about after the fourth evening meeting or so. Most of the relationships that had been budding that hadn't yet been consummated would be. Everybody was so excited about these weekends. A couple of groups, everybody made love to everybody. Not in any of the ones I led.

I led a couple of the groups. Especially the first one, and the second one, too, I was having so much fun being in this new role as a facilitator, amateur therapist, whatever, that I was just caught up in it. After I did about the third one—by now it's getting into middle of seventy-one, maybe even beginning of seventy-two, I'm not quite sure it began to get old. I've done teaching a bunch of times in a bunch of contexts and the first time I do a lecture or workshop I feel very inadequate. The second time I sort of get on top of it. The third time I'm bored because I don't really have the teacher gene in me. It's more about me. So as long as this was about me learning new things, being slightly scared, slightly on edge in the whole process, I was just fascinated at my own personal journey. I think I was really good with other people. Mimi would come in and go over the video tapes with me and make suggestions. So you had a feedback loop. It was fun. Anyway, that was just an interesting evolution process.

So we get to about this point. I'm doing these encounter groups. Even though we're doing Point Pinole and these other projects, I've really kind of fallen out on the larger traditional Legal Aid thing. So okay, I'm going to do the next thing. I'm going to quit. I went to Mexico with my girlfriend at the time, Katherine, took some acid, sat on the beach and decided I was going to come back, I was going to leave my job, I was going to move from where I'd lived. I didn't know where. It was time to move on. And oh, by the way, I was going to break up with Katherine. So I amazingly decided all this on the same day. We almost got busted coming back over the border because we were so out of it that we had not thrown the acid out. They totally searched us because I had beard and long hair and we were totally grubby. We'd actually stayed up all night tripping on the beach. We got kind of snotty in a radical Berkeley kind of way with the border guards. So then they started taking apart some of our stuff, they just really went at it. They pulled out every sleeping bag. They emptied salt shakers. They did all this kind of stuff. We get across the border

and I reach in my pocket and I find—the only place they haven't searched is my pocket—and there's all the rest of the acid.

06-00:43:44

Stein: Oh, my god.

06-00:43:44

Warner: So anyway, I had a couple of other near misses with dope. Berkeley was just a kind of legal zone as far as all that stuff was concerned but then there was the rest of the country.

06-00:43:59

Stein: Were the cops complicit? Or did they just not care?

06-00:44:04

Warner: Yes, if you had a joint. I had one incident happen where I was going out with a really lovely woman named Liz and I was over at her house on South Berkeley and suddenly there's pounding on the door, unbelievable and desperate. I open the door and this person kind of falls through and comes out with this hysterical story. She had been walking home from Cal and suddenly a guy appears out of the bushes with a gun, takes her behind the bush, robs her, puts the gun to her head and snaps the trigger and it doesn't go off. But she thought she was dead.

She stumbles through the doorway. We immediately call the cops kind of thing and they come bursting in, put a cordon around the neighborhood. This is a big deal thing. But we look later, there's a couple of joints lying in the ashtray. Basically, they're not going to bust you for that.

Another time, it was just my time. I did this once in my life. I had gotten the two kilos of marijuana from somebody I knew in the country in a pillowcase and was dividing it up on the floor at Point Richmond where Ann and I had been living. This was during the Legal Aid years. I was bringing all these front page lawsuits and was the number one personal public enemy of the establishment, including the cops who were all white, especially upset over the school desegregation lawsuit. The guy who lives downstairs, we'd rented the downstairs to, got ripped off in the night. Somebody had broken into his place and stolen some stuff. He wasn't too bright because he'd hidden his marijuana and called the cops and then, as the cops were coming, he's thinking, "Oh, wait a minute. The connecting door to upstairs is not locked. The cops will probably walk right in" This is the one night in my life that I have two pounds of marijuana all spread out waiting to put in baggies to sell to my friends at cost. We take turns kind of doing this. The only thing that saved me was Ann had picked up a dog on the street, a stray, which I couldn't stand. A little miniature schnauzer who barked all the time, like, "Ar, ar, ar," which we named Fang. I started driving back from downtown Richmond at seventy miles an hour in my car but the cops were already there. I'm thinking, "I'm going to get busted. I'm going to be in the state penitentiary. This is

enough stuff, possession for sale in Richmond with the wrong DA. This is not Berkeley.” But the dog had barked like crazy at the connecting door. The cops had stopped. They were still downstairs. I kind of ran in and just desperately was trying to scrape up the marijuana, put it under the bed, but then it still smelt outrageously. I just came downstairs. “Everything’s fine up here. It’s great.” We didn’t let them in and they eventually did the report and went away. Some other people would, in those situations at that time, if they weren’t in the right place at the right time, some little accident would happen and hey, you were busted. You had a whole new life of misery.

06-00:47:13

Stein: There was another side to it.

06-00:47:14

Warner: Oh, yes. Gradually, of course, we got to the place now in California where marijuana is basically legal with medical marijuana. And, of course, there was all sorts of groups and whatnot. Free love, free cannabis.

So I quit Legal Aid in March of 1971. Where am I going to live? I called up Ed Sherman, who had been a co-worker, a lawyer in the Richmond office who had left about a year before and had gotten divorced. I say, “Ed, what’s going on with you? How do I do this?” He’s living in a brown shingle house, which is now a co-housing place, on Sacramento Street between Bancroft and Allston. But it’s not out on the street. It’s left over from the 1890s where it had been a Japanese American tree farm, commercial garden, and it’s right in the center of the block. You have to walk down a path behind the houses that are facing out and the center of the block is big and it’s sort of hollow and there’s this brown shingle house. When the first Berkeley co-op, which is now Andronico’s on University Avenue was built by the Swedes, Swedish immigrants kind of in the thirties. There had been a bunch of little workers cottages on University Avenue just below Sacramento Street and somebody had the idea of, instead of tearing them down, putting them on skids, they had no foundations, and dragging them two or three blocks south and placing them in a semicircle around the brown shingle house. They were kind of falling apart. Nobody had done anything to any of these places for years. Some real estate speculator had just bought the whole place on the grounds that maybe this will be worth something someday. They turned it to a local property management company who rented it out for almost nothing because it was west of Sacramento Street. It had turned into this sort of not quite commune, but community of sixties types who had migrated, been drawn like a magnet, to a place where it was sort of like communal living in the city. It was a miracle kind of hippie paradise place.

Ed had rented the bottom floor of the big brown single house, which had about eight rooms in it. It was unbelievable. A couple of people who he’d been living with had moved out. He had just met, as it turned out, this totally gorgeous flower seller girl who had found him, because he was practicing law

out of the backyard and doing cheap divorces and cheap bankruptcies and supporting himself and she wanted a divorce. I called him up and he said, “Hey, you want to move in? Come on over.” I go over and people are sitting around the roundtable in this old kitchen with the old cupboards from the 1890s kind of playing music. I said, “Great. Solved. I’m here.” I move in and Ed’s saying, “Well, this is kind of working for me in terms of doing this alternative law thing. You can do it, too. We’ll be partners.” We never were quite partners. We each had our own little individual businesses—but we had a sign out by Sacramento Street that somebody had made for us because we were always trading legal services for whatever we needed or could get. I ended up with a water bed that we traded for legally representing a falling apart water bed company. The refrigerator was always full of various kinds of psychedelics we got from clients. We mostly didn’t take them – they were just part of the scene. I should say once in a while we did. Because we’d represent these people that got busted and go down and try to convince a judge or jury that 800 tabs of acid was really for personal use. “They just can’t stop using it, Your Honor. It’s really possession, not for sale,” which was the difference between a misdemeanor and a felony. But anyway, that was the next year or two.

But what was really the first big step to my involvement with Nolo, in about sixty-nine or seventy, two-thirds of my way through Legal Aid, California had passed the first no fault divorce law and the state judicial council had done this amazingly pioneering thing, which was to come out with the first pre-printed forms for divorce or for that matter, any kind of legal action ever. What a breakthrough. This was something we’ve crusaded for at Nolo for the next thirty-eight years to have happen for every state. Before that, people typed out every pleading on legal paper sort of individually. In the late sixties at Legal Aid, we started automating it a little bit with the very first IBM typewriters that had a little memory. It was way before personal computers. Basically, you had to type out these pages of the same boilerplate allegations time after time. Now, suddenly, divorce had been reduced to a half a dozen preprinted forms. Check the box here for your children and fill in the names, and so on. This fitted in perfectly with what we had really learned at Richmond. Number one, you could mass produce law. Number two, the process was really pretty easy and forgiving. Three, oh my god, now we have these pre-printed forms which anyone could figure out. I’d been working Ed him doing these commune law classes somewhere in 1971. But Ed had also started doing these classes at the co-op and figuring out how to write down instructions for how to do your own divorce. So right about the time I move in, he’s sort of finishing that the instructions in the form of a small instruction book. I do a little editing on it. Neither one of us thinks it’s really going to go anyplace really. But this was why a lot of Nolo worked later on. You had a good idea and you did it. The principle insight, of course, being that poor people had lawyers through Legal Aid, but the middle class and of course hippie types didn’t. The world was being full of people who had overpriced educations and had learned how to deal with workbooks and were ready to be

our customers. Nobody had ever really done self-help law since the nineteenth century. There was a tradition way back of every man is his own lawyer in kind of the frontier days.

Professionalization in the legal system had become everything at that point so there really wasn't a self-help alternative. Ed finds a local printer who runs a short print run off. It was just typed out on an electric typewriter with this really funny matte cover. It just barely would count as a book. Just looked like this big funky pamphlet, maybe about 120 pages long, with the court forms that you could actually tear out. I think it was \$5.95. Because of word just spreading, from about that spring soon after I moved in, in about April through the summer, maybe three or four hundred copies gets sold. Ed finds Book People, which was this new age distributor of books that had been an old line conservative company which got bought by a hippie collective. Book People was just totally famous in the book business, because at a time when New York was just publishing hardbound books. Book People was distributing oversize trade paperbacks which were invented by small publishers on the West Coast. The first one that really succeeded was an oversize paperbound book, was the Whole Earth Catalog. The first Whole Earth Catalog put together by Stewart Brand. That book just became a religion for people. I think a million of them were sold or more. There were Whole Earth expositions in the city, big exhibit halls where people were showing off early solar stuff and yurts and we were kind of right there as part of all of that with our self-help law stuff.

City Lights carried the divorce book, Cody's in Berkeley, and so on. But it was just basically a non-event until September of seventy-one, when, who knows how, the head of the Sacramento County Bar Association sees a copy of it, gets the copy and is horrified. I don't think he ever reads it. It was pretty clear that he'd never really read it. But the idea of self-help law, doing your own divorce, was genuinely absolutely shocking to most lawyers and certainly shocking to this guy. We built the company a lot later on reacting to that shock because we got so much publicity and we learned how to do media. But at this point, we had no clue. Ed had done this divorce book, I'd edited the little book, and we were doing this backyard law practice. Our friends from Legal Aid were whispering to non-eligible people who came into the offices, "Hey, don't go downtown and get a lawyer who charges the minimum fee schedule. You can go over to Berkeley. These guys will do a divorce for \$125, not 350." Word was also spreading a little bit in sort of hippie communities in Berkeley. So anyway the guy calls a press conference, the head of the Sacramento County Bar Association, the day after the legislature deconvenes in September 1971, as it happens. Everybody in the Sacramento press corps is still there, several news services, Copley and others. They show up and they don't have a story when the bar association president holds up the book and says, basically, "This is like poison Tylenol. This is like poison Tylenol. Don't do this. We're warning the citizens of California against this. This is dangerous." The story runs statewide, everywhere. We're just like in the

hippie compound in Berkeley. Radio, T.V., newspapers all over the state are running the story. They can't even get in touch with us. So everybody just runs the story. Just about every newspaper in the state. It's on most of the TV news. It's on everyplace. It just is the story of the day and it's not really the state bar association, it's the Sacramento County Bar, but it's at the state capital, so that's good enough, and the President is standing up in front of some columns on a courthouse or something official-looking doing this press conference, holding up the book. It just runs everyplace. The sales of the books go from, as I said, three or four hundred in four months to 3,000 a month. We are just inundated by people going to bookstores and saying, "How to Do Your Own Divorce. How great, let me have one." And the belief in lawyers is so low at this point. The middle class has been so denied affordable legal services. No one quite realizes this. We have a clue, and other Legal Aid lawyers do because we have had to deal with long lines of middle class people looking for help. A couple of Legal Aid lawyers start Jacoby and Meyers, which is later a big chain of low cost lawyer clinics because, in a sense, we have this insight that the bar and organized lawyers have completely missed. Most of the elite law schools are just training people for corporate America, which can afford lawyers.

Anyway, the sales just rocket. We're out of divorce books almost overnight and Ed's trying to madly fix it. I'm helping him a little bit. We actually have a guy who's doing illustrations who's stoned all the time with a little fine toothed pen and drawing these little fine abstract lines, because oh, how far out. Cool. In a sense, Nolo is born out of all the negative bar publicity. I immediately see, "Oh, my god. This is what I want to do." So most of the credit on the first book is Ed's, but I start almost on the day sales take off writing the California Tenants Handbook, which turns out to be Nolo's second book. I'm just beginning to see, oh, my god, this is the perfect thing to do. I don't have to practice law. I'm dealing with fun stuff. I love writing and so we'll probably just leave it there.

06-00:59:15

Stein:

That's great. Thank you.

Interview #4: August 6, 2009
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07-00:00:00

Stein: It is August 6, 2009 and I'm here interviewing Jake Warner. This is our fourth interview. Last time we left off just as Nolo was getting started. I'd love it if you could pick up in the very early years.

07-00:00:23

Warner: All right. So there we are in 1971. We've done something that, at least in modern times in America, has not been done before. There were plenty of self-help kinds of legal books, interestingly, in the nineteenth century. But in the post-professionalization era that began in the 1880s and gathered steam in each succeeding decade, this was a brand new thing. I guess one question to ask before we get into the details of year to year in Nolo and which books we published, and why, was why was this interesting at this period of time. What was going on with the legal system itself that, in a sense, made it possible for a couple of guys in Berkeley, hippie guys in a backyard who were starting to publish direct access materials to disrupt the whole system. Or put another way, why would anybody care?

I think the best picture I can give you of the legal system that delivered services to the average middle class American in the mid-1960s would be that it was pretty much the same as it was in the twenties. You had loads of little tiny offices in low-end business buildings, or in some cases, just kind of at a street corner, pretty much, shop kind of locations producing law about as inefficiently as it could be imagined. Also, you have to realize that the people who were doing this level of law were maybe not the brightest bunnies on the block. Traditionally lawyers had represented corporations, corporate America, business interests and the wealthy. And that there was this other layer of lawyers that were in what we kind of called the street corner bar. They weren't very important within the profession and they made just an okay income, but not a whole lot. Part of the reason for that was there wasn't a lot of legal help circa 1900, 1920 that the average American needed to buy. You didn't think about having a lawyer or going to a lawyer all the time. Even small businesses were pretty much in a free zone, sure, okay, you signed your lease and maybe you did a couple of major contracts with a lawyer, but you did everything else yourself. The kind of world we live in today where every relationship with every employee is fraught with law didn't exist. There was no law prohibiting discrimination in employment for example. There was no EEOC, and there was no Title IX.

On the other hand, you'd had this period during the Depression where nobody could afford anything. You had this period during World War II where people were, except for maybe wills, unfortunately, very preoccupied on war and the legal profession was there but not a major part of the American fabric. But then after the war, gradually, in Eisenhower's America and into the sixties,

you were beginning to get a more complicated legal system because the beginnings of things like providing employee rights, or granting legal rights of the disabled or regulating divorce much more thoroughly, trying to protect the kids of a divorce or the less powerful spouse. So law was, during that period of time, gradually creeping into Americans lives more and more.

At the same time, after the GI Bill, you had more people getting education and knowing how to deal with a workbook. Going to school and being able to move information around. In the old days, the fact that the lawyer could read and write and had a fireproof box in 1880 was half of it. Now you had a much more educated clientele. You had a society that was demanding, for all sorts of reasons, more law and you had these street corner lawyers with a little carpet, one secretary, a Selectric typewriter and maybe one or two lawyers in the office producing it laboriously and expensively the old fashioned way. This didn't work well because that kind of way of making money never works for long in any activity? People need to get smarter. Today, you cannot run the same kind of little corner appliance store that would have worked thirty years ago, because Costco or somebody has taken over the whole business. So how was it that the lawyers could just be still sitting there, not very efficient, not very smart, not plugged in very well, and still be charging high prices? Why was the American consumer faced with that?

A big part of it was because during the Depression, lawyers had figured out a way to absolutely pass laws to protect their monopoly. Unlike any other profession whose providers didn't have direct access to the legal system, lawyers did. So what did lawyers do to feather their own economic nests? Well, the main thing they did was say no advertising. It was banned by every state bar association in the country and the bans were upheld up by the courts, that lawyers couldn't advertise. It was considered just too tacky, it was too beneath them. So that meant that Lawyer Smedley over here could not put up an ad saying, "I will do a divorce for fifty dollars less than lawyers so and so over there." It became, in a sense, all sort of plain vanilla. As if that wasn't enough, lawyers adopted something called the minimum fee schedule. I was in the smoke filled rooms in Richmond as a Legal Aid lawyer when they would work this out. Every bar association in the country would get together once a year, and they would decide what the prices everyone would charge for all the basic legal tasks. So in the city of Richmond, California, where I worked, a divorce was 350 bucks. You could not get a divorce from anybody in town less than that. There was no law that said that, it was just written into the DNA of these lawyers that they were all going to get together to charge the same prices. This meant the most competent, fastest, most able lawyer in town charged exactly the same as the stupidest, slowest ones and you couldn't advertise anything different.

In addition to that, you get competition in any field because more people enter it. You get more people who come in who therefore find innovative ways—it becomes in their interest to beat the system rather than just go along with the

system. Well, starting in the thirties, late twenties, the bar associations of the country had decided that there was a danger of there being a vast oversupply of lawyers in the country. Back east and in some places like San Francisco and LA, people had started these independent law schools. New York Law School was one. I think there was one in Boston. People would get off boats from Europe and sign up for law school by the thousands. So what you were starting to get was, instead of your normal white shoe WASP lawyers who went to the established state law school, you were getting Polish people, Croatian people, Russian, Irish, Italians. People were coming who, at one level, were teaching themselves English but at another level were going to these, in a sense, matchbook law schools. These schools worked. They were turning out lawyers by the thousands.

07-00:08:38

Stein:

Was it an incredibly most prestigious occupation at that time?

07-00:08:42

Warner:

Well, people just saw that law was a way to make money. But eventually, the white shoe people, the sort of WASPy people that controlled the profession immediately began to see, "Wait a minute. If we let too many of these guys in, we're not going to have high value anymore." But for the next guy who wanted to get in, my god, this was golden. So a big war happened which had been fought through the twenties between the traditional law schools and the night schools and the traditionals won. Remember during the Depression there was a movement to limit the supply of everything via programs like the NRA. Every state but California banned unaccredited law schools. So one day, some of these law schools were turning out people by the thousands, all of which would be coming in at the bottom of the profession. They'd be going out to their little Italian neighborhood and grabbing clients. All over. But all of a sudden, the supply of new lawyers just got ratcheted back by seventy percent. I make that number up, but it decreased by a huge amount.

07-00:09:44

Stein:

Right. This is the late twenties?

07-00:09:45

Warner:

Yes. Well, it started in the late twenties when the effects of this were being felt. Obviously these law schools were sort of fighting back, claiming that they were promoting legal competitors. But they lost in the thirties where everybody wanted to restrict competition. People who might have been liberals and supporters of more lawyers when times were good now said, "Wait a minute. There's not even enough business for us. We certainly don't want more of them."

That meant that by the sixties, the supply of lawyers was quite low in terms of population and fixed. In your typical state of Illinois, the University of Illinois had a law school. Maybe Illinois State or something like that had a law school and there were a couple in Chicago. But whoever the traditional colleges were

that had law schools pre-1920 had them and that was it. It was very difficult to get a new law school and certainly not unless you had a way to get accreditation from the ABA. Like UC Davis got a law school here, but that was the University of California behind it.

Then during the thirties, the profession also did treaties with every other profession. This was important because as a profession, another way that you were in danger of losing price control was to have competition from outsiders. For example, prices might be driven down for tax law issues if accountants could do it. Bankers, for examples, might want to write a mortgage, which lawyers claimed was a legal document. We don't think of it as that because we make rules to say what's law and what's not. But logically, hey, telling you not to drive more than fifty-five miles an hour on Shattuck Avenue is practicing law, too. So treaties were done with all the major professions between the legal profession where they sat down and said, "You can do this. We can do that." So if you went to an accountant in the sixties, and you said, "I'm starting a business and I need to incorporate. And by the way, I need to set up my books." The accountant would say, "Fine. I'll help you set up the books, but you got to go over here to my buddy the lawyer next door and get the incorporation." Even though you can just go to the state and do it yourself you should get a lawyer. Then multiply that in a million ways and you can see how the professional turf was divided.

A big example was that the legal profession actually wanted to, in the twenties, require all income tax stuff come through them, because they said it was a law and there was no reason that accountants could interpedently deal with this law. If accountants were going to do it, they had to work for the lawyers, like dental hygienists worked for the dentist. There's another big treaty kind of thing involving another profession. Why don't we have stores that clean teeth? Because dentists prevent us from doing so by law. So the lawyers did a lot of that and they prevented all sorts of other people who might have provided services cheaper. Well, one big one they did was to prevent non-lawyer providers from coming in and doing these things because when you think about it, how hard is it to do a name change? How hard is it to do a step-parent adoption? Well, former legal secretaries over the years would open up little businesses and say, "Come on in and I'll help you for half of what a lawyer charges." So lawyers actually passed laws, mostly in the late twenties but still very much enforced in the late sixties called Unauthorized Practice of Law laws. Now remember, lawyers controlled the profession root and branch. They were the people who were in the legislatures making the law. They were the people who were enforcing it at the DAs level and they were out in the community in their little offices who were the eyes and spies for the legal monopoly. They would see somebody, they'd call up the DA. What other profession really made it against the law to compete? The unauthorized practice of running a riding stable? C'mon. So UPL was a crime. In most states a misdemeanor. In some states, it was a contempt of court thing where you could also be sent to jail by a judge. But in most states

it was a misdemeanor. It still is in California. The definition is totally circular of these statutes. Most of them say something like, "It's a violation of the law to do what lawyers do." That's what it comes back to. To do what we do is a crime. So not only no advertising, fixing the number of people coming into the profession, fixing the fees, but criminalizing the opposition. So you created this little stupid but highly profitable monopoly. Local lawyers could sit there and rake in the bucks.

So into that comes Nolo's first book and, oh, my god. Now, instead of having to pay \$350 for a divorce, you can pay \$5.95 and do it yourself. Oh, by the way, it's not hard. If you've gone to school, you kind of already know how to do this. Or, in the case of our second book, the *Tenant's Handbook*, you can fight your own eviction. You can deal with your landlord. When he says he won't fix the roof and by the way, he's kicking you out for complaining, you can fight back. Our third book was on how to protect your home from being taken in bankruptcy. We went on and did stuff on bankruptcy, on how to do your own bankruptcy. In the first five years of Nolo, we covered ten or so of the basic things that people have to do, some of them involving court and some of them not.

So we were nibbling away at that monopoly. The most popular sport in America in those days was telling vicious lawyer jokes. Lawyer jokes were just everywhere. You still hear lawyer jokes, but much less than before. During the Second World War, all the jokes were against your sergeant, in the military. There were millions of these jokes. The point is that the only way you can get back at people who have too much power over you is to laugh at them. So lawyer jokes became really popular. The story of legal democracy in America, which is not only Nolo's story—Nolo's story is congruent with it, we've been part of it—has been, over the last forty years, breaking down a lot of these barriers. Now that it has been down we don't need to laugh at lawyers as much.

A lesser form of professional turf grabbing and one I didn't mention but has been very important and still is, is that lawyers, in an inimitable way, elevated arcane legal language and procedure into a kind of priestly-like religion, which they just would not let go of and are still having trouble letting go of. We call it the Plain English Movement. We've been fighting it for years. Even now, we print Nolo's plain English legal dictionary. When I went to law school, most of the people were educated at state expense at the undergrad level. I was not. I was educated at private expense. But most people at Boalt had gone to UC. They'd learned how to write essays. They'd learned how to, hopefully, express themselves fairly well and then they'd go to Boalt, again at state expense, where they were taught this totally wacky legal language that has no sense. There is no lawyer Latin, really or any other sensible language. There's a little bit of bastardized Latin, a little bit of old French, a little bit of archaic English. You put it all together and you have legalese, which is basically gobbledygook. When you *voir dire* the jury, you do nothing more

than question the jury. When you say *res ipsa loquitur* or something like that, you have no need use this silly term – all it means is that the thing explains itself, right. So law students, probably like students everywhere, loved the fact that they were being let in on lingo others couldn't understand. Their professors encouraged them. So you'd get to Boalt in September and you could write, depending on who you were, let's assume, hopefully, a couple of pages of coherent prose. By January, no one can understand a word of what you've said.

07-00:18:40
Stein:

Like a new secret language.

07-00:18:41
Warner:

It was the secret handshake, secret language. It included the procedures inside the courtroom, where you could stand, where you could go, how you could approach the judge, all the rest, most of which were nonsensical. Anybody could have said, "Here's how the room works. Here's what the rules are," kind of thing. But there were silly rules about everything including who could hand a document to whom. Because of English history, I, even as a lawyer, could not hand a piece of paper to a judge, even though the judge had just asked me for it because I was considered to be too low in the court of William the Bruce or something 1500 years ago. So I would have to hand it to the clerk. And I could only approach the judge to talk to him or her by asking permission of the judge. But in other situations, you could do almost the opposite. It made no difference. If you put all these things together, they became huge barriers to non-lawyers, an intimidation. So much so that people would say, "Well, you'd be nuts to go into a court by yourself." But the fact of the matter is, when you really got into it, that most of the barriers that were preventing them weren't honestly needed barriers. They weren't substantial like I don't know how to do a cross-examination in a murder one case. It was really about where to sit, stand, pee.

Breaking that down gradually was also something that over the years was going to be super important. But I guess the final thing, to wrap this up, was Legal Aid had had the amazing effect of, one, publicizing from coast to coast that low income people had lawyers. It was probably an exaggeration because of the amount of money that was spent in providing Legal Aid wasn't nearly going to provide enough lawyers for all poor people. But the image was that poor people had lawyers. Rich people have always had lawyers. Now let's assume I go to work in a gas station or something. I'm an average middle class or lower middle class, working class person. I've got no access to high-end lawyers. I've got all these stumble bums with the street corner offices. They have fixed the fees. I can't afford the money on my wages. They won't explain to me what's going on so I can help myself. This totally goes back to when a woman was supposed to go have a baby in the 1940s and told nothing but show up and when the baby was coming out. And as for the Dad, he could

walk back and forth and smoke Lucky Strikes on the floor below and, "Oh, it's a girl." Right.

07-00:21:23

Stein: Just complete knowledge deprivation.

07-00:21:25

Warner: Yes. Complete knowledge deprivation. It just goes on and on. In almost every other profession or field, whether it was funerals, say, or used cars or whatever. But in those other fields, it was young lawyers who would get indignant, put together the court cases or legislation and lead the reform effort. So Nader would be out there on car stuff. But Nader is a lawyer and the best friend of lawyers. So when it came to tort reform or something, forget it. So lawyers reformed every target out there, every consumer black hole they could find, except themselves.

So this was why Nolo stayed the center of the legal reform effort for as long as we did. Because normally in other areas, even if you got a reform idea ten seconds quicker than somebody else it didn't take long for others to catch up. For a movement, you got your power, you got your energy by being innovative. How was it that ten years after we started, we were still—and I'll get to that in a minute—kind of leading the pack in reform stuff. A lot of it was that all the normal reformers had gone through the process of law school and drank the Kool-Aid and thought they were doing fine.

07-00:23:05

Stein: How aware were you of all of these areas that you're describing, of how strong the monopoly was?

07-00:23:11

Warner: Right. Sitting in Richmond, watching this happen, having people come to Legal Aid, have just barely enough money that they didn't qualify for the poverty law thing and having to send them out to this list of lawyers in town—which was what we were supposed to be required to do—and knowing that they were fixing the prices opened my eyes. Most of that stuff was pretty obvious. I did a lot of reading later on and studying about some of the history in the twenties and closing down the law schools and that sort of stuff. Historically in the 18th and 19th centuries, America was really pretty open as far as the legal system went. Abraham Lincoln appeared in court before he was a lawyer, for example, as a "paralegal." There was some restriction on the ability to practice on the East Coast in the 1780s. John Adams was on the board of some bar association in Boston that limited practice. But the efforts to reign in the profession from colonial days through early days of independence to the Civil War kind of thing always got beaten by the western movement and by the dynamism of the country. It wasn't really until the 1880s, 1890s, that most lawyers started to go to law school as opposed to apprenticing in a law office. The legal profession kind of convinced the country, as did the medical profession, and in some cases for

perfectly good reasons, that professionalization was important, that we needed to clean up people who are doing brain surgery in barber shops and that kind of thing. So there was all this impetus to turn law over entirely to lawyers.

Well, of course, by the time you turn over everything to insiders, you often get abuse—and in the legal professions case, there was very little regulation at the states. The Department of Consumer Affairs and other kinds of people who might have, at least in theory, regulated the Bar didn't even exist until the 1960s and even then they deferred to the Bar. They really weren't regulating the bar. In most states, you had self-regulation by lawyers. Well, a hundred years of power is going to lead you where, right? It's going to lead you to corruption every single time. We had a stupidly corrupt system in the larger sense in that it was basically self-interested and didn't serve the public. A closed world. For example, there was the infamous Rule One. Rule One was when a lawyer in the 1960s in the middle of a court case when the case was sort of wrapping up stood up and said "Oh, and by the way, Your Honor, I want you to take into consideration Rule One." Rule One meant simply that the lawyer hadn't been paid yet, so don't give him the final decree. Keep this case going until I get paid.

How did judges get elected? Well, they got elected sort of pretty much without opposition unless a bunch of local lawyers opposed them. So every judge would go around and solicit contributions from lawyers and then they'd wait their turn and hopefully eventually get to be a judge. I was in more than one courtroom where a drunken angry judge—and judges were not always sober after lunch, for sure—when a lawyer would come before them and the judge would ostentatiously list his blotter and scowl as if to say, "Oh, you're not on the contribution list so you better expect no fawns here."

07-00:27:13

Stein:

Of his contributors?

07-00:27:13

Warner:

Yes, right. You were especially in trouble if you contributed to the other guy. One more example of just typical law at the time was me representing somebody on an order to show cause hearing on a Friday morning. I was practicing for a couple of years while Nolo was starting just to fund it. So I had a divorce that somebody had sent me, probably from Legal Aid, to beat the local fee fixing system. It was a fairly obvious case. I called up the other lawyer and we settled it on the telephone. "Okay, you guys wanted this amount of child support and we proposed that amount, but what can we agree on?" Whatever. "150 bucks." "Okay, fine. I'll see you in court. See you out there in court on Friday," the guy says. And I'm going, "Wait a minute. Court's all the way in Pinole for me. Why are we going out in court? We've already agreed to this. Let's just submit the paperwork" And he's going, "Son, we're going out to court on Friday because I get a thousand dollars for making

that court appearance and making it look good." That was just part of the system.

07-00:28:23

Stein:

And there was no shame about among lawyers?

07-00:28:27

Warner:

No shame. Believe, me, this happened more than once. I was in a conference with a judge after lunch. One judge out in Walnut Creek would always have all the lawyers come in on small criminal stuff and just talk about it before we'd go out in the courtroom. So Joe, who is going to play golf with the judge later starts talking about the case of this kid who's fucked up now for the third time and done something borderline violent. He held up a liquor store with a gun. Joe is this fancy family lawyer who the kid's family has spent all that money on to get their kid off and the kid's gotten off a couple of times before. So we are all just in chambers. Everybody's sitting there and they're talking about golf, they're talking about this, they're talking about that, and then finally we get around to this kid. The judge looks at the file and he just says, "Joe, you're going to lose on this one. I just can't give you this one. This kid is trouble." And Joe says, "Yes, I know. He's a bad actor, Will. But look, I got ten large from this family so I need ten minutes to make a show." The judge said, "Fine. I'm going to be sitting there totally patient. You pace up and down for ten minutes, you say anything you want, you pull down the heavens, you pull down the angels, you pull down this, you pull down that. I'm going to look really serious. But if you hit eleven minutes, you got to give me five strokes because it's ten minutes and out and then I'm going to sentence him no matter what you say. But you're going to get to earn your money." It was just that many new lawyers came into places like Richmond. They knew each other for years. They took turns, who's going to be judge now and everybody was taking care of everybody. They knew in those worlds that certain lawyers were borderline crooks and they sort of tried to avoid them, but nobody else ever turned anybody else into the bar association. There was really no self-regulation, although there was supposed to be.

07-00:30:20

Stein:

Did Legal Aid threaten this system at all?

07-00:30:23

Warner:

Legal aid threatened it in a couple of ways. One was it brought much smarter people into town, a few of whom stayed. But it just knocked them back because suddenly Legal Aid would be filing motions and filing pieces of paper and doing legal research and the kind of stuff that nobody ever did. It also amazed them and wrong-footed them in the sense that they had legal secretaries who would type out a divorce, which was on legal paper, numbered on the side, and you had all these pro forma boilerplate allegations that were exactly the same in every case. Certain irreconcilable differences led to the irretrievable breakdown of—blah, blah, blah. Paragraph, paragraph, paragraph of boilerplate. The secretaries would type them out one by one. We

came in and put it all on a mimeograph machine and just filled in the blanks. They did a divorce every two weeks. We were doing ten a day. So in terms of the kind of clinic stuff, in the beginning they thought it was tacky, they thought it was funny. But in the longer run, once people learned how to mass-produce, you don't necessarily go back to the old people. We were the new shoe factory with the cheap shoes.

So Nolo threatened them more, I think because we were putting stuff right in the hands of people and some young lawyers loved it because when you come out of law school, you hadn't learned any of this. They would go grab our books.

Early days of Nolo, I'm in the elevator in the courthouse down in Alameda County, having done a divorce or done something, probably using the Nolo book. There was this woman in court who was doing her own divorce. We had to be really careful about talking to people, because if they knew you were kind of from Nolo, they'd try to get you to take over the whole thing, right. So I'm just sort of watching and she's this energetic young woman who has clearly put a lot of energy into this, a lot of study, and a certain amount of anxiety.

07-00:32:33
Stein:

When is this?

07-00:32:34
Warner:

This is 1972 in Superior Court in Alameda County, California. So we're in the courtroom. She gets up, her husband's not there. She's done everything right and does her spiel and gets her divorce. This woman is so sky high, not only about the divorce but about just the power of having done this. My god, she's overcome her fears. It was a big moment for people in those days. We had a slogan, "Solo with Nolo. Take the law into your own hands." We used to have these water pistols that said, "Take the law into your own hands." So anyway, she's on the elevator and she's looking at this lawyer who had been there too sitting at the table and he had gotten three divorces for clients. He was an attractive guy and maybe they're flirting a little bit, a young guy. But she reaches into her bag and holds up our book *How To Do Your Own Divorces* and says, "I did my divorce with this book and saved \$350." She was just so proud. The guy just looks at her and he reaches into his briefcase. He pulls out *How To Do Your Own Divorce*. He says, "Lady, I used the same book and I made a thousand dollars."

07-00:33:49
Stein:

You were on this elevator?

07-00:33:50
Warner:

Yes.

07-00:33:51
Stein:

That's amazing.

07-00:33:52

Warner:

So not everybody was opposed, but a lot of people in the legal profession thought, "You're just stealing our business."

07-00:34:00

Stein:

Because you're dipping into the same client pool at this point? Beforehand, at least with Legal Aid, those people couldn't have afforded the services anyways.

07-00:34:06

Warner:

Right. Exactly. Right.

So let me circle back around a little bit. So we're sitting in Berkeley in this half commune-half community, big old brown-shingled house encircled by these smaller kind of cottages. Some of this is kind of an accident in the sense the divorce book really takes off. I follow on. Ed loses interest right away, but that's another story. Toni and I follow on with a number of other books on protecting your house, a book called How to Beat the Bill Collector, which we still publish under the title of Billpayers Rights, a book on unmarried couples living together, a tenant's book but also on protecting the homestead on your house in bankruptcy and then we started moving on to estate planning and bankruptcy.

07-00:35:13

Stein:

These are all your early publications?

07-00:35:16

Warner:

Yes. A lot of the early books came out of the experiences we had in Legal Aid, because that's what we knew. Each of the books required a little bit more investment in the sense that, oh, okay, you put the books out and you're getting money back gradually but you wouldn't have had enough money back to do the next one necessarily, except in the case of the divorce book which was very profitable right away. But by this time, Ed had more or less left.

07-00:35:43

Stein:

Were they expensive? Was it expensive to produce these books?

07-00:35:46

Warner:

Well, in the beginning, we had no clue how to make a book. I had about as much clue about how to produce a book as you would. Maybe more, maybe less. Yes, we didn't know where you bought the printing, where you bought the paper, how you laid a book out, all that. So we were pretty amateurish at the beginning. A lot of it was done with a Selectric typewriter and whoever was around who could do a little graphics and we found local printing companies and got bids and paid too much for books and we'd end up with 4,000 books basically under the bed, stored behind a friend's store because we didn't have a warehouse. One problem led to another and we had never thought through what it was like to be in business. We probably never would have done it. It was just like, "Oh, what do you have to do today to get more

books or sell more books or whatever?" Then we needed to get distribution and we needed to collect bills. People don't pay you a lot in this world unless you are tough.

So in a sense, the way I solved it and Toni solved it was to go on the road. We both figured out that, pretty early on, we were charismatic and we were in an area where it was really a cinch to get a lawyer on the other side to say this is just like brain surgery and to attack us. So we could do a moving road show, which started in California with KGO radio and stuff. There was a guy named Ean Edell who did the radio doctor thing. He started being the hippie doctor and I started being the hippie lawyer in the early seventies. I would do a show once a week on their big 250,000 person a minute afternoon KGO talk show. Good Morning, San Francisco, all the shows in the Bay Area even little ones at KRE and K-Jazz. Toni and I were the right people at the right time, just photogenic or something, and with a cause. Very quickly I was in the union in LA because I did Good Morning, Los Angeles so much with Regis Philbin, Kathy Lee Gifford and Sarah Purcell and a whole bunch of people, because I would go down there and do these five or ten minute segments on billpayer's issues or divorce. They would be paying my plane fare, and a nice hotel, the Bonaventure Hotel and a car for us to promote our books. Eventually I did LA so much—it's a union town, unlike most cities—I joined AFTRA and they were paying—

07-00:38:39

Stein:

What union is that?

07-00:38:39

Warner:

American Federation of Radio and Television Artists, I think. Yes. We eventually got kicked out of AFTRA because they had a gimmick where if you got, under a minimum—in those days it was 150 bucks for just showing on a morning show—they would take it all for the health and welfare fund, which you weren't eligible for unless you earned ten or \$20,000. So it was just a complete steal in the sense that it was not our business, we were never going to do that. Toni got offered jobs several times as being the anchor of various places because she'd be up in Seattle and it was just that moment when they wanted a young, beautiful, Asian smart person. Like your Wendy Tokuda at the time in the Bay Area. But we didn't want to do that profession. So eventually when, a year or two later, we were on Merv Griffin, which was a big national show at the time with Eva Gabor and this person, Betty White, and a few others about living together. They were all about the romance of marriage, having been married about thirty times each and we were the sort of disreputable children who didn't get marriage and lived together in sin. Anyway, the whole show turned around on them. We became the—

07-00:40:15

Stein:

Poster children.

07-00:40:15

Warner:

Yes, and they became the old people with their Cartier diamonds. But anyway, we got a bunch of money for that, six or 800 bucks, which would be three or 4,000 now, and they made a mistake of sending us the check directly instead of the union. So we just kept it. We weren't going to give that money back. So then we got kicked out of the union. That was fun - being kicked out of a union.

07-00:40:35

Stein:

Was it hard to get all these TV spots?

07-00:40:38

Warner:

No. It was in the beginning but we had somebody work at Nolo who would send stuff out, send out our pictures and our story. The story was good. In the beginning of the seventies, we were a little more local with our shows. But people liked free legal information. When a KGO thing would be advertised, "We're going to talk about your tenants rights on Thursday with so and so." We have as our guest the author of the Tenants' book, so it would work well. There was a certain amount of interest because people were getting free legal information. So periodically Melvin Bellie or somebody would say—I debated Melvin many times—that this is brain surgery. So pretty soon we were interviewed by Time, by Newsweek, by the LA Times, by the Wall Street Journal. Once you got those in your portfolio, then you sort of were gold anyplace. We did some co-publishing deals with a company called Addison Wesley because we were publishing mostly in California. This is getting a little later, more towards the end of the seventies. They published versions of books nationally and would put us on the road. So we would be on Good Morning, Detroit, with the Spinners. Who was the guy that had a crush on Toni? Michael Douglas. He was on that show. Then we would be at Donahue in Chicago in the next day. So it was very heady for a while. But that was the way we thought we needed to build the company, because if we could get the demand happening and people to know the name Nolo and want the product, then even we could figure out how to gradually hire the people behind the scenes, make the books and get them out there. There was a big tradition in Berkeley, then, to a lesser extent now, of small press publishing. Book People was based here. The first Whole Earth Catalog. There was an awful lot of people coming out of the sixties who wanted to do books on feminism, lesbianism, nude beaches, how to make stained glass windows, build your own yurt, on and on. So there were thousands of little publishing companies and there was a lot of support. We all learned together.

07-00:43:14

Stein:

The culture was already established?

07-00:43:15

Warner:

Culture was there. People had knowledge. If you went to book shows, there was a big West Coast contingent of Northern California wackos—so we had a lot of support on the idea that we don't need to be Random House or

something. We don't need to follow any of those rules to make books and to sell books and to figure it out. So for me, personally, it was very surprising that I kind of liked being in business.

07-00:43:47

Stein:

It sounds like you had some good business acumen from the start, understanding how to do the sort of independent press tours and put yourself out there.

07-00:43:55

Warner:

Yes, I was sort of surprised, because I was just the kid of a lawyer and grew up in a family with no trade skill, if you think of it that way, for generations. My grandfather had been in the sandblasting business. So I kind of look back and think, gee, at four or five inflection points in my life where I ran into people who were really ambitious and knew what they were doing, I completely was inadequate. Intuit would be an example, with them taking their tax program in the eighties and turning it into a billion dollar franchise. We probably could have done that with wills and estate planning. But I always wanted to have a life, do other stuff. I got to say that circling back to Nolo, in the early seventies, we would publish our next book and it wouldn't quite pay for the costs of that book plus the old book.

Fortunately, I had a couple lawyer gigs left over from Richmond one for Model Cities and one for a community based health care corporation and these were things where, when I'd left Legal Aid, I knew all these folks. They were being represented by a very prominent African American lawyer who went on to become a famous law professor, but who tended to get in arguments with the community sometimes. A couple of months after I left Legal Aid providentially, in seventy-one, I get a call from the head of Model Cities for Richmond and then this other program saying, "Well, the community board fired their attorney and they're not letting him back in there and the whole program is grinding to a halt because they don't have a lawyer. There's no lawyer and they don't trust the city anymore, so we need to have a lawyer that just represents the community within the model cities process, in a sense, against the cities lawyers." And Henry Dishroom, the director is saying, "You are the only lawyer we'll take." And at first I said, "I don't want to do that. I have no interest in going back and doing this. Thank you very much." Three times a week I'm getting a call from this guy Dishroom and I finally realize, my god, it's very flattering. Maybe their whole model cities program, millions and millions of bucks is in jeopardy—and these folks are my friends. There's twenty-two black folks on the community board and me against the city. So I was able to keep that part-time job and a similar health care job, and that paid just enough money, mostly working in evenings and committees, to pay child support and give me a little bit of breathing room to pay printer's bills.

First couple of years of Nolo, also we did sort of a legal clinic in the backyard where we set out to break every one of the legal profession's taboos. I cut

prices in half, advertised through Legal Aid offices. There were all sorts of to dos about this. But it wasn't illegal. So I kept doing a bunch of cheap divorces and bankruptcies for a couple of years while Nolo was building up.

07-00:47:16

Stein: How did Toni come upon the scene?

07-00:47:18

Warner: I'll circle back. An hour ago, we talked about how I'd decided in Mexico that one day in my life to quit my job and stop going out with the person I was going out with and move, all in the same day. That was in the spring of seventy-one. I decided to move in with Ed Sherman, who is the guy that wrote the divorce book who I'd worked with in Legal Aid in this brown-shingled house. So in I move, and on the same day, this seventeenth most beautiful woman in the world, Patricia Parker, who was this absolutely incredible, sweet, lovely creature also was moving in because Ed was trying to catch her as his new girlfriend. He had done her divorce. It's just like one of those massive love at first sight things. There I am with Patricia and I broke all my own rules. I was not going to be living with anybody because, wait a minute, I'd been married, I'd done this whole thing. I'd stayed away from being captured by any woman or capturing one myself for 18 months. But now we're living in this communal house but we're basically sort of living together and we can't keep our hands off each other. It's kind of like that thing we've all been through, like the electricity just does not stop being electric. This is in maybe March. She's a flower girl, to complete the picture, on the streets in Berkeley, right. She's working for one of those guys with a kiosk. She graduated from three colleges and one thing and another. Long blond hair.

About six weeks after I get over there, and I'm actually still finishing up a couple of cases on contract for Legal Aid, I get a call from—have I talked about this, the political thing? I don't want to repeat myself.

07-00:49:32

Stein: I don't think so.

07-00:49:31

Warner: There's two guys named D'Army Bailey and Ira Simmons—and if you go back and read a history book about Berkeley in the early seventies, the big moment was when the radicals took over the city council. D'Army Bailey and Ira Simmons were two African American guys, Legal Aid lawyers. D'Army had worked for Martin Luther King in the south. They had arrived in town, were working in Legal Aid in the Bay Area and somebody talked them into running for the Berkeley city council doing this sort of takeover thing. Well, that was when Lonnie Hancock, who's still around, was the hippie candidate. She was only in her twenties. She was like the flowering of the hippie movement in Berkeley and so she was running for the city council to change the city from the hippie point of view. Nobody thinks the three can win. But as the election goes along, the campaign in the spring of seventy-one,

suddenly they're gaining traction everywhere. It's just that time. Everybody's going to go for this. Remember Ron Dellums is our congressman by this time, so anything's possible. A guy named Warren Widener, who had been around for a while, an African American guy on the city council and the board of supervisors—later on the board of supervisors—decides there's no room for moderate African American candidates. So he switches in the midst of the thing to calling himself a radical. It'd be like some US Senator switching parties. He joins the radical slate. So if the radical slate wins it will be four to three over the traditional slate so people start following the election around the world. It starts appearing in European newspapers, other papers. I'm barely paying attention. I voted for the radicals but I'm just living in Berkeley. It wasn't something that I got caught up in.

The radical slate wins. The next day, I get a call from this guy who was a Boalt student and who had worked for me at Legal Aid as a legal intern one summer. Apparently he liked me. He had been heavily involved in the radical campaign and had just been at a summit meeting with D'Army and Ira and all these guys. A big promise in the campaign had been to write a radical city budget. We're going to adopt a radical city budget and this is going to be the first city that's governed on radical principles - we're going to have a city budget that's going to reflect our views. At this point, Lonnie didn't really talk to D'Army and Ira. Warren Widener was going to, in a few months, slip back to being a moderate. But for a little moment there, as far as the rest of the world was concerned, the whole city was going to get remade and it was going to be announced and the key was the radical budget. D'Army and Ira had promised that the whole thing, in about four weeks, the beginning of May, at a press conference. This ended up being so well attended in the old city council room that they had to move it. Hundreds of people came. European newspapers, all over, Time, Newsweek.

Anyway, these guys have one month to write this radical city budget based on all these promises they've made. They've never even opened the city budget. City budget, are you kidding? So anyway, I get a call from my buddy, and he sets up a lunch with me, D'Army and Ira. Remember, I'm just leaving Legal Aid, I can use the money. We meet at some soul food restaurant on San Pablo Avenue, Choice Restaurant or something, and we eat lots of green things. I later, of course, find out that normally they never eat anything but cheeseburgers. They're wearing their leather suits. All the introductions are made and I agree to write the radical city budget for them. So that afternoon, I walk over to their little political headquarters, which is, of course, in a fairly nice house on the north side of Berkeley that they'd rented for six months because some foundation, somebody with money, had been funding this lefty takeover of Berkeley. So they actually had a few bucks. They had a staff of four or five people who were working on their campaign, headed by a woman named Carol Kizziah, who's very much still around, still with Delancey Street and running the high schools for Mimi Silbert at Delancey Street. Anyway, Carol's great. I walk in. Here's a file cabinet, here's the old city budget. By the

way, there are also files on every single thing Ira and D'Army promised or every good idea. "You need to sit down and make sense of this and then in three days from now, go and sit down with Ira and D'Army. Oh, by the way, you better be our liaison person to Lonnie, as well."

Anyway, there are five people sitting in the room, one of whom is this young Japanese American woman, Toni Ihara. Remember, I come from the east where there were few Americans of Asian descent. When I'd been out there, I'd been married at law school and there were almost no women in law school. There were eight maybe in the total law school. None of them were Asian. So I basically never talked to a beautiful Asian woman in a social context. So she is so stunning sitting there that I'm afraid to talk to her. I do not talk to her. It takes me until the third time I go over there. I'm going over there every afternoon, but I can't figure out even a word to say to Toni, especially in front of all these other women. As a man, you want to be in a situation where the women outnumber the men about two to one, possibly even three to one, but it's death when you're the only male because the women just watch each other. You can never get anyplace. If there's ten of them and one of you, you're finished. If there's ten of them and two of you, you're finished. But if there's ten of them and four of you, then you're in great shape because they'll think the odds now are good enough that they might catch a guy, that they might as well take a try, right. Anyway, about the third or fourth time over there, I manage to figure out how to chat up Toni a little bit. I'm just smitten. I just fall in love. So I'm in this not good position here. It's kind of like one day I'm so in love with Patricia, we're going to stay together and oh, by the way, typical me, I've just fallen in love with somebody even more. So this is the really funny part. All this is happening fairly quickly. So now we're maybe in the middle of May. The press conference is going to come up like in a week or ten days. I have an ancient Saab, one of the old ones that looks like a Volkswagens and Patricia needs it to go off to the flower market or whatever she needs to do that day. So she's dropping me off by the house. She's going to go off with the car. She said, "Wait a minute. I want to just meet all your new friends. All this stuff you're doing is interesting." So she just parks the car and follows me in. I'm thinking, "God," looking at the two of them, "you two are so amazing." Then [finger snap] Patricia says, "Don't I know you? Did you go to Santa Barbara?" And Toni replies, "Oh, we sat next to each other." And so then they're over there just fucking hugging. Oh. I said, "I'm really finished now." Anyway, so that was the story of meeting Toni. As it happened for the budget, I kind of went in and interviewed half of the interesting people in town. It was a lot of fun. People's Architecture, who wanted to tear down all the fences in all of Berkeley and let the dogs run free and various free medical clinic people. Whatever great ideas there were. We funded most of it in the budget by just cutting the police department in half, which later would have turned out to be totally unpopular in the African American community. But we got all this money by cutting the police department in half and gave everybody else money.

At the press conference a couple of weeks later, D'Army and I got up there with the budget and they're very proud of this whole thing and this is going to be the whole new way life is done and all that. I had outlined their talking points. That was fine but then the people from the Paris Match are here, Newsweek, or whatever, and they start digging into the budget. "Well, on page three over here, you say you're moving the ambulance corps from the police department to the fire department, which was one of my good ideas. Why are you doing that?" And they didn't know. So within two minutes, I'm up there doing the whole press conference. D'Army actually handled it pretty well by saying, "let us call up our budget manager to go handle the details of this thing." So it was just sort of a funny moment.

07-00:58:58

Stein: That's great. Why don't we pause here?

07-00:58:02

Warner: All right.

[End Audio File 7]

Begin Audio File 8 08-06-2009.mp3

08-00:00:00

Stein: All right. August 3, our seventh video, our four fourth interview with Jake Warner. Shall we start off with that question or you want to continue with Toni?

08-00:00:17

Warner: Let's continue with Toni. We'll dovetail into the question of how did I get to be from Ralph to Jake because it does connect in a kind of way. So there I am now, in love with two women. I trace this back to the fact of my childhood where I never really quite had a mother, I had about five women taking care of me. So most of my life, I've been a little susceptible to the next pretty face and I've kind of had to curb this and behave myself somewhat, some of the time. But it is sort of a convenient explanation in my own mind as to why I've been a little less monogamous in my life than other people, since I could never count on a woman in my childhood. They always disappeared on me, even though all of them were loving and wonderful. I just needed to have more than one. Convenient sophistry, right?

08-00:01:19

Stein: Yes.

08-00:01:20

Warner: So I meet Toni but I'm still with Patricia, and so I'm just chatting Toni up a little bit and trying to figure out what to do here because I'm just so amazingly in love, slammed by being in love with her. Then inevitably, after having been with Patricia a few months, the kinds of problems that pop up with anybody pop up and are a little bit more I have to deal with. But I'm loyal to Patricia.

Out of the blue, the miracle happens where the phone rings, let's say 15th of May 1971 and it's the dad of Patricia's former roommate when she'd been at college back in Boston for a year, going to Simmons when she'd been married. Little Molly (I made that name up), the roommate, has had various psychological breakdowns and problems. She's much better now and the parents of course are really supportive of her kind of getting back on her feet. What she really wants to do is go to San Miguel de Allende in Mexico, a little walled city, to sort of learn Spanish—ha-ha—just an excuse to have a nice summer. Anyway, the parents and the psychologists and everybody else think this might be a good idea for her to kind of get back on her feet. But they're not going to let her go alone. So Molly's decided that Patricia's on the short list of people who she would go with. The parents know Patricia and think this might be okay. So out of the blue, they call and ask, "Patricia, do you want to go and have a three month vacation and learn Spanish if you feel like it in Mexico for the summer and just sort of call us if our daughter gets totally whacked out. That's your only job. Hang out with her. We'll pay for the whole deal." So Patricia's looking at me and says, "This is not a good time to go but I need a vacation." And thinking of Toni, I say, "Well, maybe you ought to consider it." Anyway, she decides to go.

08-00:03:33

Stein:

A little intervention on your part?

08-00:03:35

Warner:

Well, maybe a teeny bit. I was pretty good and if she hadn't gone I would have hung in there. She decides to go and I think has a lovely and exciting affair with somebody that summer but that went with the territory of traveling. So suddenly, there Toni and I are. At this point, I'd pretty well figured out she doesn't have another special boyfriend. But we'd been really just sort of chatting for five minutes here and there over at the political scene. But yes. So I ask her on a date, which was walking on the Berkeley Fish Pier, the day after Patricia left and we kind of get about twenty steps out on the pier and I say, "Wouldn't you really rather be home at my house making love?"

08-00:04:37

Stein:

Five minutes in?

08-00:04:38

Warner:

Yes, five minutes in. She says yes and we almost run to the car. It's sort of been that way ever since. Like anything, getting together in 1971 and staying together was not real easy at that time, and I had two kids, had been married twice. I said to her right away, "I'm at a stage in my life when the last thing I want to do is be monogamous and settle down. It's like I've already done that. Dating is my kind of fun thing." And she's only twenty-three and unlike most young Asian educated women of that generation who want to have a fairly buttoned down life, get ahead—Toni is not like that at all. She's the only sort of hippie Japanese American girl wearing fuck me sandals in Berkeley. She's already got all the coursework for a master's degree. She went to college at

sixteen, did her junior year abroad at nineteen in Italy and knows Italian, has already got most of her anthropology master's, but on the other hand, is sort of like so smart that she can afford to be lazy. So she's sitting around Berkeley having a good time. Eventually goes to law school. So we had to kind of sit down and say, "Are we going to be able to keep this together?" A lot of why we did was we didn't live together. We often lived separately to counter my not wanting to be monogamous. She began going out with this young law professor who lived in the Santa Cruz Mountains. Her way of dealing the next ten years would be to find one other boyfriend at a time to make up for the fact that I would tend to find more than one other girlfriend. But we managed to stay together as each other's primary person and more or less living together. Thirty-eight years later, it's just a bit of a miracle. Bit of a miracle. Yes.

08-00:06:38

Stein:

Wow. So she started working at Nolo pretty soon after you got together?

08-00:06:40

Warner:

Yes. Well, she was really there when Patricia, in a sense, moved out and I was working on the tenant's book. Toni worked on that first book - as an editor. And then she started doing a lot of graphics stuff to make the books. She also co-authored several of the first Nolo books. That was partially why she decided to go to law school. If I'm going to write books about the law, I might as well know something kind of stuff.

But even when she got out of Davis, that was like the mid-seventies, she would be kind of living with me part-time, staying with her other friend, going to Davis. The fantasy was she was going to do more law books. The reality was by the time she got done with law school and never liked law very much, Nolo had gotten bigger and making the books had become a big deal. A typical American story. She has all these degrees in all these different things, but she really liked graphics, so she taught herself how to do paste up and layout with light tables and so on. And then eventually she figures out how to do covers, cover art, and to create a lot of our special promotion stuff. She did all the covers for years and eventually the general layout on double wide computers with all the complicated draw programs.

08-00:08:11

Stein:

And that's still what she's doing now?

08-00:08:12

Warner:

Well, she's actually succeeded in moving herself slightly over into the corner after twenty years or more of doing every cover. She's kind of located herself in I guess what I would call the special projects division of graphics, which means she kind of does what she wants to do.

08-00:08:32

Stein:

Sounds like a good corner to be in.

08-00:08:35

Warner:

Yes. She loves doing tradeshow presentations or making mockups of cool design things. Susan Putney actually does, very competently, all the covers these days. Anyway, somewhere along that line there, after I've met Toni for about a year, part of my plan, and her plan was we don't want to work too hard, although we want to build this company. You look back now and you think, "Oh, Jake and Toni really worked their asses off in the early days and paid their dues." We did work reasonably hard, as in writing book in the morning or something, and we were persistent and we certainly went out and did enough publicity and did enough things, but we really had decided not to work too hard because you only get to live life once. Why waste all the time that's, in a sense, your most fun time as well? Where is it written that everybody should work their asses off until forty-five, try to make a zillion dollars and then go retire someplace and be miserable? No, no, no. So I had morphed from leading encounter groups, which were a lot of fun, to doing improvisational theater. That was my big exciting thing. So I was in all these improv groups that did funky performances at an old mattress factory turned studio. Probably in seventy-two or so, we were sitting around right down here at Juan's Mexican restaurant in West Berkeley making up the little schedule for our goofy performance that only our stoned friends and family members were going to come to, kind of a loft kind of performance.

All the women in the group, of course, at that point had changed their name, done away with their father's name kind of thing. So it was very common for a woman who had been Emily Silverstein to now be Tania X. So people tended to have their born name and their made up name. So as we were doing this, sitting right at Juan's, people were passing around the sign-up paper. This was just for the program that was going to be hung up that nobody was going to read anyway. Somebody gets around to my turn and I'm thinking, "What name should I put down?" I'm hesitating and someone says, "Your real name. Put down your real name." I'm thinking, "Well, Ralph may be my legal name but it's not my real name. It was never my real name. It was like given to me for all the wrong reasons by my father for boring family reason, it has never been my real name." So I remember going through this thing. "Well, my dog's name is Clem, and so my real name, my new name, has to be something that fits with that." I think I got it down to Zeke, Josh and Jake, which went with Clem well. One is going to be my new name. Toni was really influential on that, in the sense that she didn't like Zeke. Anyway, so then I ended up putting Jake down and then deciding, "Okay, from that day on, everybody has to call me Jake. This is it. I'm obviously not a kid anymore but I'm not one of these people who's just going to pretend to do this for a week and it's okay." My parents, everybody, has to switch over. I left Ralph on the books, almost by accident, because I was so much out there in the media at that point and I had begun to get lots of calls. You would end up picking up the phone at eleven o'clock at night and talking to somebody you didn't know about some stupid legal question, their drunk argument over something or other. So it became really convenient to leave Ralph out there on the books.

08-00:12:41

Stein: As your business name.

08-00:12:42

Warner: As my business name. Everybody has called me Jake ever since. So if anybody calls up and used the word Ralph, I know I don't know them.

08-00:12:51

Stein: That's convenient.

08-00:12:52

Warner: Yes. So that part of life was a lot of fun. The improvisational theater stuff, I learned a lot from that. That was an interesting thing.

08-00:13:06

Stein: So should we get back to the books? The business?

08-00:13:09

Warner: Yes, to Nolo. Well, there's a little more than books. Before we get back to the books. We talked about the fact that the legal profession, in a sense, had this enclosed world. Monopoly is not quite the right word because they're lots of independent providers and oligopoly is not quite the right word because there's a bunch of them. But nevertheless, they'd created a protected world of entry into the profession and of pricing.

Another way we tried to beat that system as a little sideline to Nolo was something that Ed and I invented called the Wave Project. This consisted of us creating, in the lawyer's view, an illegal business. It consisted of non-lawyer legal typing services, form preparation services that would help people do the forms out of our books on a non-lawyer basis. We got called in before bar associations. We thought we were going to go into jail on this one much more than Nolo. It was only in the very early days that we thought they'd really come after us on self-help law books. Very quickly, we saw that a First Amendment defense would work and we realized that although they could call us a lot of names, they really weren't going to be able to do much to us. But with the Wave Project, this is maybe seventy-two, seventy-three, we decided that loads of people who had gone to college could buy a book on bankruptcy or could buy a book on changing their names, say, or buying a book on doing their own divorce and follow the instructions, tear out the pages, go through step by step, and get it right. But if you worked in a factory, if you were a recent immigrant, if you had some language problems, other kinds of stuff, not only were you dealing with an intimidating court process, but the paperwork process that seemed like really obvious to somebody who had had some education wasn't the least bit obvious to you. So what was the solution? The solution was to invite a bunch of people to Berkeley, in our case about twenty retired or dropped out school teachers, social workers, one guy who had been tired of being in the jewelry business, on and on. We vetted people pretty carefully to get smart people from around California and we started with divorce but we also did name change. We later did corporate formation.

By that time, California had widely gone to preprinted forms, which made it much easier. Up to the sixties, most of law in America had been done by typing it out on the paragraphs with the numbered paper. One good consumer reform that had come from the state had been, "Okay, we'll give you these forms and you fill them out." The minute you get something where you're checking the boxes and filling in the blanks, even though it may be sort of complicated and you have to put in all these extra explanations and the fact of the substance may not be easier than it was in the old system, it looks easier and people are comfortable with it because it looks like every other form you deal with so how hard could this be?

We put these forms up on the wall of the old brown-shingled house, invited all these folks to come over and we said, "Look, let us teach you how to do this. It's not hard. Lawyers go to school for three years. We're going to teach you in a weekend." It was then up to the people to go out and open their own offices around the start. The Wave Project, do your own divorce stuff. We never did a formal franchise thing. Making big bucks was never anything that really interested us. We figured, "Oh, well, let them come after us if they want to." We didn't charge the people we trained anything up front. You do a case, you send ten or twenty bucks into us at the Wave Project center, we will do a newsletter for you and if you get into trouble with the bar, we will advise and help you. Well, mostly the trouble was, "What do I do in this case, in this situation?" We had all this material which we thought was pretty clever to deflect the bar. It did turn out to be pretty clever. For example, we told the Wave Project counselors to put up signs everywhere saying, "I'm not a lawyer. I am just a typing service. I am here to help you prepare your own divorce." Also we advised having customers sign a disclaimer saying in five different places, "I am doing my own divorce. I have a copy of *How to Do Your Own Divorce*. I have a copy of *How to Change Your Name in California* or *How to Form Your Own Corporation*. I know you are not a lawyer and are being hired to help me do my own divorce." Then we would train people to refer questions to our books rather than answer them. We would say, "Look, the answer to that common question on child support is on page 26. Look, it says if their children are adopted, they are children and they're treated like any other children. But if they're not formally adopted, if they're just a step-parent, step-children, then they're not. There's no obligation for support, there's no obligation for whatever.

Now, a customer would come in - a client. We didn't call them customers. A client would come in and they would say, "Gee, I've got two kids that are our kids and we had this one kid that we adopted but the other kid we didn't. What's the situation with that?" If the person answered that question, and essentially if the person who'd come in was faking it and had a wire, and was from the DA's office, that was Unauthorized Practice of Law. That was a crime. You could go to jail.

08-00:19:17

Stein: That was considered legal advice?

08-00:19:20

Warner: Yes, that was legal advice. Definitely. So our answer to that would be, "Listen, I am only a typing service. I can't give you legal advice. But, in fact, the book that you have in your hand, on page twenty-six, discusses that issue. You've got to read that." Because the book was protected by the First Amendment, the person would then read it, and if they were smart enough, they'd say, "Oh, okay, I get it. I need to pay child support for my kids and the adopted kid, but not her kid." Well, we would do that a hundred times with the training. In a sense, we'd hand people all the information they needed. It was actually really good because it made us change the books going forward, because of where there'd be little holes that would turn up in real world situations.

08-00:20:04

Stein: So you were very cognizant that this was a potentially risky venture.

08-00:20:06

Warner: Right. It's still done now, forty years later, the typing services and other people out there who have long since forgotten Ed and I started it. Steve Elias, actually, who still teaches the legal typing service people remembers. But we invented a method, using our books, to beat UPL. It was just foolproof. Our counselors would have the books totally dog-eared. "Look, it says over here military rights." "It says over there property rights."

In those days, the DAs were all over it. This goes back to our discussion at the beginning of the last hour. How do lawyers enforce their cartel? Well, one way they enforced their monopoly was to say it was unauthorized practice for non-lawyers to do what we do. As soon as a typing service would open up in town and start advertising in the penny saver, lawyers would spot it. Also, we had ads in our books. People could buy the books and see right there you could go to so and so. But as I said to even be out there promoting in a little way, to have a storefront, whatever, a local lawyer would see it. They'd call the DA. They'd say, "Surely this is unauthorized practice of law." A judge would sometimes get involved. But the district attorney usually would take the lead. Remember the D.A. had to see local lawyers at the bar association meetings where they would be pressured to send an investigator over to the typing service. Well, we were pretty good at helping people recognize investigators. A lot of the investigators looked like somebody comes from the FBI to talk to you about something. We've all seen TV. Really, they do come with the flat shoes. So most of the time, there was no doubt that people were kind of getting investigated. But we would also work with them around the scripts to be sure they presented themselves as typing services, not lawyers. There were a couple of times where people got busted, and prosecuted. Ed and I were, a couple of times, going to go and stand on the courthouse steps and try to get handcuffed, as well, because, after all, it was our project. But sooner

or later in California, a deal would get worked out and no one went to jail associated with the Wave Project. That didn't happen in Florida where a woman named Rosemary Furman was convicted and sentenced to jail for doing cheap divorces. But Rosemary had nothing to do with us. She became the big poster child for UPL. She was on Sixty Minutes. But what typically would happen would be that some compromise would be worked out because the local newspapers or the media would always jump in. They would be on the side of the typing service person on the street corner trying to provide fifty dollar divorces kind of thing. So some compromise as to what you could do and what you couldn't do would be agreed on. Or in some cases, typing service people just didn't want to fight it. "Okay, I'll close down. I wasn't making that much money anyway." But there are more typing service offices out there. If you look in the yellow pages today, there are more people providing scrivener services, as they're often called, now than there ever were.

HALT, a legal reform organization in Washington, DC, got really into the UPL fight and there were battles in the seventies and eighties all around the country over what authority, Constitutionally and in other ways, lawyers had to regulate non-lawyer providers. UPL became a big issue. Then it started becoming a much lesser issue in the nineties as the internet came along. Hey, if you can do your divorce at Legal Zoom or just go on Nolo's site and you can do your will for forty-nine bucks online. The legal profession had just no ability to take on the internet. The fact is that maybe half the population can deal with stuff on the internet and a third, maybe, can't because of the same barriers of technology. So on a street corner in Hayward, there's still somebody who's helping somebody type divorces. Divorce Helpers or something they maybe call themselves now. There may still be some little local fights over Unauthorized Practice of Law at a local level, but it's not interesting anymore in the larger sense. But it was very interesting for a while. We felt like the books were your kind of stick shift Volkswagen at the time, but lots of people weren't going to be able to drive Volkswagens, so the Wave Project took it to the next level, was going to really be the way that a lot of people got law from a midlevel provider who could provide quality services cheaper than a lawyer. And of course, professions claiming turn for economic reasons is still a big issue. Tomorrow try to open up a store called Clean Teeth on Main Street. The dentists will close you down like that, which is a fight I always wish somebody had had the guts to fight.

08-00:25:33

Stein:

When you started the Wave Project, did you see it as more of a social service or more of a business opportunity?

08-00:25:42

Warner:

I'd say both. We realized that if we could get these offices to really work, they could sell a lot of our books. The method to beat UPL really requires people having the information service, or in this case the book. So you built it into the price. If people were going to pay fifty bucks, a hundred bucks, depending

on the time, 150 bucks, building in the price of a five or ten dollar book was nothing. Did we see it as a business? Later people came in and started franchising these things at a \$100,000 a crack, some of them fairly fraudulent, some of them less so. Turning it into a real business? Nah, I was too busy going to dance theater classes. I liked the radical part of it, changing the profession. When it came down to, three years later, having all these people call me all the time, "Oh, I have this problem, I have that problem," getting out a newsletter, putting together meetings for them, and really not making a lot of money on it, it just wasn't us. I thought, "I love publishing. I love the central function of publishing which allows you to take a task, doing it once, handing it out there for loads of people and having it multiply through printing more copies or now the internet." In a business like the Wave Project, you have to do the task over and over again. It's the downside of being a great chef. If you cook the perfect meal one time, nobody ever cooked a better one, you still have to do it again the next night? So in that sense, I liked publishing. It turned out to be a good place for my ability to concentrate very hard in the short-run but get bored very quickly in the long run.

08-00:27:39

Stein:

And still have it live on beyond your attention span?

08-00:27:41

Warner:

Yes. And I can go on to the next book. Yes. But yes, exactly. Yes.

08-00:27:45

Stein:

I had another question. You were saying that the books were covered by the First Amendment, so there wasn't the issue of UPL. But I know that that was contested later in the nineties. But was that something that was contested at all in the seventies?

08-00:28:04

Warner:

Yes. It's certainly true that there are exceptions to everything when you're looking at First Amendment stuff. The public perception that, hey, there's free speech is colored by the fact that, back to Justice Holmes, you can't cry fire in a crowded theater. So there's always limitations on all kinds of speech. If we were doing books on how to do nuclear bombs, somebody would say that's not free speech because there are other important societal considerations. So from the very beginning when we published the first couple of books we didn't know if a First Amendment defense would hold up or not. We really didn't know what was going to happen, and when the bar association people held up the books and said, "Don't buy them. They're poison Tylenol." We really didn't know if they would try to call us before hearings, and as they did later in Texas and close us down. But that didn't happen. It did happen with the Wave Project. They did try to go after us as the inventors of what they considered to be this whole UPL system. But sticking to Nolo, during the seventies and the eighties, our books started becoming everywhere. Eventually, other publishers started copying them. In the beginning, we had the field sort of to ourselves because people couldn't quite believe that we had the chutzpah

to do what we were doing, so bigger publishers wouldn't come into it and little publishers tended to be sloppier and not do as good a job as we did. Circa even the mid-eighties, if you went into a store and asked about self-help law books and who competed with Nolo, people would say, "No one," which wasn't completely true. But as the taboos came off, obviously people like Dummies and other companies including Wiley started coming in. It was a competitive area like any other.

And you're right. It's odd that it wasn't until the mid-nineties in Texas, the late mid-nineties, that you actually had a state that was deciding that the unauthorized practice of law rules, right back to UPL, trumped the First Amendment. So they had a committee of the Bar, which in Texas was unified with the Supreme Court, so all the threatening letters we got were from the Supreme Court of the State of Texas on stationary that they'd used for years to scare legal secretaries and other typing services out of business. "You are notified to appear before the such and such committee in such and such a room in such and such a building in Austin on such and such a day to explain why you are not guilty of the unauthorized practice of law. By the way, this is a misdemeanor in the state of Texas." There was nothing about right of representation, nothing about what exactly you were being charged with. So our response to that was just, "Oh, my god, we've died and gone to heaven. This is going to be so much fun. We've been doing this for twenty-five years. We're so much better at this than you guys are because you're just used to stepping on legal secretaries." So we just immediately wrote them back and said, "Here's a catalog of everything we do and a pencil. We do books on small claims court, we do books on this and that." We knew that the investigation was really kicked off by WillMaker, our computer program. But they had asked, in the most general sense, for Nolo to come and explain everything. In addition to saying that they didn't have the due process rights to do this, we asked them what were we being charged with exactly, which books were being targeted? Did we have a right of representation, what was the process of the hearing and on and on for three pages of that kind of stuff. We also sent them the Catalog and the pencil, saying, "Well, circle any of the books here that you're not after. Are you trying to say that the small claims court for the state of Texas, which shows people how to use small claims court, where lawyers don't go, is guilty of UPL?" So they got really mad and they fell right into the trap and they wrote back this peremptory thing. "Everything you publish is subject to our review."

08-00:32:55
Stein:

This is 1995?

08-00:32:57
Warner:

It started in 1996 and continued for three years. So the next part was, "And yes, you have a right to be represented by a lawyer, but just show up at such and such a time." So we looked into the statutes under the state of Texas that allowed them to do these peremptory hearings and found that they'd never

quite been adopted correctly according to their own rules twenty years before. That there was really sketchy legal authority for what they were doing. So we filed a writ of mandate in the supreme court of Texas, remember, whose name was on the stationary—

08-00:33:42

Stein:

On the letterhead.

08-00:33:43

Warner:

Yes and we challenged the whole administrative process from the word go. So we didn't start in the lower courts. But hey, we claimed that this subcommittee of the Supreme Court - which they claimed wasn't really their subcommittee - had no right to act as they were doing. The bar association had an unauthorized practice of law committee, but in many states, including Texas, the supreme court holds on to independent jurisdiction of who can practice law. So in this case, the bar association's committee was under the titular authority of the Supreme Court, which had never met with them or controlled them in any way. It was just the bar association using the Supreme Court's stationary to intimidate people.

But in this case, we looked behind the stationary and just blew it up. We claimed that the Supreme Court was after us and we petitioned the Supreme Court to show them that their own rules are wrong. Well, the clerk of the Supreme Court wrote us a letter saying he couldn't believe we would be so low as to do this because we had to know that the Supreme Court wasn't directly involved in any of this, and on and on. So we had to write back, that too bad, we would publicize this to the press to the end of time. And we did - it was in newspapers all over the country by this point. Then Steve Elias, who I haven't said enough about, my alter ego here who's helping run Nolo for twenty years on the political side, wrote back quoting Lyndon Johnson. In response to the Supreme Court's claim that it was the bar, not them who was after us, Steve quoted Lyndon Johnson saying, "That dog won't hunt." Here in California, and in most of America, when somebody puts their name on top of stationary, people have a right to believe it came from them. So we're just going to hold onto the belief that if we get stuff on the Supreme Court's stationary, that we have a right to think that it's you. But if you do things differently in Texas, then I think it's up to you to explain." Steve was just being hilarious.

I may have mentioned that one of the really high points of my life was that summer of 1996. My youngest is in seventh grade. Toni and I did a house trade with some people in Oxford, England. No, wait a minute. That wasn't the Oxford summer. Sorry, this was the next summer. We did a house trade with some people in Brittany in France and we were over there for a month with our kid and her best friend. So maybe by this time, it's more like ninety-seven. This thing went on for a few years. The New York Times had done a big story on the whole thing. Half of the financial page had been this major

story on Nolo versus Texas. Ninety-eight percent super favorable to us. One hundred percent super favorable. Just the perfect story. I'd actually known this was coming out. But I don't know it had been published. But anyway, we'd gone up to Paris for a couple of days, and Toni and the girls were off at that big Paris flea market, the kind of thing which I'm kind of avoiding so I'm spending my day just walking around bookshops on the Left Bank, having my quasi-bohemian day. I stop for coffee at Hemingway's Old Café there on the Left Bank and get the International Herald Tribune, which is owned by the Times, and there's the story. There I'm reading about myself with my picture. Perfect.

08-00:37:48

Stein: That's amazing.

08-00:37:49

Warner: Yes, I know. Right under the umbrella right out there. What could be better than this.

08-00:37:55

Stein: Wow. So when that was done, did that basically settle the issue?

08-00:37:59

Warner: Well, really what happened was after a couple of years of total embarrassment, us having a really smart First Amendment lawyer in Austin, Pete Kennedy and working with Steve Elias, who was my co-strategist, we came up with a defense that never really got to the First Amendment. We kept saying the way this statute is written, it says that it's unauthorized practice of law to act like a lawyer or provide information like a lawyer or hold yourself out as a lawyer. But the word lawyer comes back in here at every turn. So we got all these affidavits from people who used our books saying they knew books were not lawyers. But let me take a step back. The first lawsuit on the writ of mandate, we won in the supreme court because the court in essence said "Oh, my god, we have not looked at our old rules and our committee structures for many, many years. We want to stop this case right now and appointed a learned committee to go back and look at some of the procedural issues you have raised in this case and otherwise and see if we need to make changes." It took them a year. They went back and they threw out every one of the procedures that they'd followed, all the things we'd objected to and had they adopted now rules with better due process protections. So then they said in essence, to the bar, "If you want to continue, you have to start over with new rules."

Well, rather than waiting for them to do that, we sued them in state court in Austin for a declaratory judgment, to declare that our stuff was perfectly legal and not subject to UPL considerations. We were going to raise the First Amendment if we had to, but our basic reason was that the citizens of Texas could tell the difference—this was a funny defense—tell the difference between a Nolo book or software and a Texas lawyer. The whole thing was

based on doing what lawyers do. If people knew that our book or program was not a lawyer and not what lawyers did, we were home free, or so we claimed. As part of the lawsuit, we got about ten people who had used Nolo books. But we very carefully tried to weed out the wacky right wing constitutionalists or the left-wing activists. We tried to get single mothers who had to go out and start a business and needed to incorporate their little dress shop kind of thing. In everybody's affidavit, they explained, "Oh, I got this Nolo book. Here's what I did. I taught myself about the law, I accomplished the task." Oh, by the way, their final paragraph was, "I do hereby solemnly swear that I can tell and could tell the difference between a Texas lawyer and a Nolo book." Remember, we were going to take this thing into a jury trial in Austin where there's a huge software business. A third of the people on the jury, at least, would be higher income sophisticated people. Income's not the right word. Internet would be one of the right words, but more like information-sophisticated people. So the idea that, "Hey, we're doing our taxes with software, we're doing this with software, we're running the whole world with software. You mean you can't do a will with software? Really?" So we were going to have a lot of people who were going to be attitudinally on our side.

I went down the night before the case was filed. Oh, along the line, we'd been joined by, as co-plaintiffs voluntarily, the Texas Library Association. All the public librarians in the state of Texas who were basically saying, "Well, if Nolo loses, they're going to take the books out of our libraries and burn them on the lawns. This is not going to happen. Over my dead body." You'd get these predominantly women librarians who had never had a political cause in their life who were seeing themselves as fighting book burners like right back to Hitler in the thirties. We got joined by the National American Association of Law Librarians. Behind the scenes, there was all this stuff going on, where the law librarian of the state of Texas's big public law library, the biggest one in Austin, which was under the jurisdiction of the Supreme Court on the next floor, and which had more Nolo books than any place in the state, saying, "I'm quitting if we lose this case." Molly Ivins was writing about this. Everybody was in this and on our side.

So I went down to meet with the law librarian representative, the public library people, plus our ten plaintiffs the night before. The atmosphere was totally like the Boston Tea Party. "We're just all in this for democracy. By god, this is a historical moment." Then the next day, or within a few days—the trial got delayed for some reason —, the Supreme Court of Texas acted behind the scenes. This is the way stuff was done in Texas. They got a rider put in a bill in the legislature that said if self-help law products have a disclaimer in the product that says you're on your own, this product does not provide legal representation and if you need a lawyer, go hire one. That kind of normal disclaimer. If this was included, a publisher was protected and it's no longer UPL.

08-00:44:10

Stein: This happened the day you were going to trial?

08-00:44:10

Warner: This happened the week that we were going to start our trial. It happened the last week of legislature. It was in July/August. The legislatures are only allowed to meet in Texas every other year for about three months. It's the way it is.

08-00:44:28

Stein: For real?

08-00:44:30

Warner: Yes. With no explanation this disclaimer provision was added on to some other bill—George Bush was still governor. He neither signed it nor didn't sign it, so it became law without his signature and the whole thing went away. It just disappeared. Of course, we had exactly that disclaimer in our book the whole time. But it was just their way of declaring defeat and running off without really admitting they were doing it. So the whole issue just disappeared almost overnight.

08-00:45:08

Stein: What year was that?

08-00:45:11

Warner: That was in the late nineties. This whole thing had lasted for about three years in the nineties. I don't know. Maybe ninety-eight was the very end of it.

08-00:45:25

Stein: Did your sales skyrocket in Texas?

08-00:45:28

Warner: It was a mixed blessing. Yes, our sales did improve in Texas. It's still one of our better sale states. We got piles of articles out of it. We worked with a smart lawyer in Austin, Peter Kennedy, who put a lot of time into it and went back and forth for years and we probably put a 150,000 bucks of money into it that we would have rather spent on something else. So what was the tradeoff between the value of the publicity and the costs? I don't know. But it was one of those battles that it was so much to fun to fight it almost didn't matter.

08-00:46:05

Stein: Did you celebrate in the end while you were down in Austin?

08-00:46:07

Warner: Yes, we did. But I always felt a little bit like, well, fraudulent isn't quite the right word, but that we knew that we were going to win and so enjoyed milking the publicity almost too much. But twenty years before, when they came after—California and other things and when the Wave Project came after us, we were really scared and we were really standing for something. It was like a true deal and if we'd gone to jail we would have deserved to be a

footnote to history and all the rest. By this point, we'd been doing Nolo for twenty-five years. Other people were doing it. It was really more about Texas being so behind the times. Only in Texas could somebody come up with this. The whole rest of the country was automatically on our side. We were a bigger company. We knew how to hire smart people. We knew how to put out a press release. The Texas bar people just couldn't believe how we blasted them. We just had a really great twenty-five years of knowledge of how to pretend to be David and how to paint them as Goliath, all of which was true. They deserved every bit of it, dumb monopolistic Texas lawyers; and had they had a chance, they would have stepped on us. But in another level, they were an easy target for us. But it was fun. Yes, yes.

08-00:47:37

Stein:

So we've jumped like a little out of chronology, which is fine. But I'm just curious what else you think is most important about sort of the first decade or two of Nolo.

08-00:47:50

Warner:

Well, I think one of the things that's important is that the people who really cared about self-help law and the mission stayed in control of the company. We didn't sell it to people, as happens in lots of businesses and industries, who wanted to make money here primarily. It's the way America works and sometimes it works really efficiently. But I'm always a little disappointed where for example a couple of people start out to splice this amazing gene or invent a mind-boggling technology - they go to school and they pour their whole life into it and they're going to make humanity better. And then somewhere along the line, people with the money come in and say, "Hey, we could take you public, we could do this, we could do that to earn billions." And the brilliant scientists are all spending the rest of their life trying to figure out new layers of funding rather than doing cool stuff. Some people obviously managed to stay in their lab with their white coat and do both. I'm proud of Nolo in the sense that we resisted that and tried to recruit people, editors, others who cared about self-help law. One way we did that—I mentioned Steve Elias. He came to Nolo around eighty-one or so. And Mary Randolph, who's the VP in charge of editorial today. They were really great people that bought into my vision that the way to market was to sell law cheap, or even give it away. We thought, "Why don't we come up with a plan. The larger job of Nolo is to help people." Investors are going to say, "Well, the larger job of Nolo was just to make money for you guys." But no, we wanted to turn that logic around. How do you get a marketing strategy that stays sincere about helping people and also brings in money to take all of us to the grocery store? So the idea, in a sense, was the more good practical legal information we can give to people, the more people will trust us, will know us, and then when they turn around and they need to buy something, they'll buy it from us.

The first big manifestation of this marketing approach was a newspaper we called the Nolo News that we published for maybe fifteen years from 1983

until 1997 and at one point had a circulation of maybe 200,000 copies. It was a tabloid sized newspaper, It came out four times a year, and had at its height, maybe had 32 pages. It would be a mixture of our Catalog and articles on usually one big key consumer law focus an issue. They could have been on divorce, could have been on landlord/tenant stuff, could have been on debt problems. It had four or five articles around that, a couple of other areas that we just knew a lot of our people were interested. We wanted something in every issue that people would be interested in. But then a third of the issue would be about political stuff and it was our way to sort of rant. We would do an editorial or articles that would be about what the courthouse really should look like. Steve's big way of encapsulating stuff was that the court system is one-third of government, so why should lawyers own it? Nobody should own one-third of government. But the legal world at the time, lawyers, think they have the right to allow who goes into the courtroom, what's said, the language that's used. In 1970, or even 1990, if you go to the court clerk and ask for a question or ask for instructions on how to do things, no, no, no, it's UPL. You get them. Where is the self-help law center that ordinary people can come into and get forms and procedures and stuff? Well, all this was like unheard of. So I think we were pretty much the first people that proposed things like lawyer coaching, the helping models now that they have in courthouses where, in San Francisco or lots of places, there's a place where you can go into a family law help center. That was totally invented by us. Not that it wouldn't have been invented by other people later, but we would be writing editorials about how do you turn the law library on its head? Everything's in a code that lawyers understand but everyone else doesn't. The code got invented by the West Publishing Company and other legal publications. So here's all these books. Somebody says to you, "Gee, you might be able to find a case you're interested in at 12 Fed. Supp.^{3rd} 792. What's that mean? How did they invent that code? So we would do a whole book on legal research, which we sell a lot of to the public, as well as to lawyers and law students—we still publish it. And why don't libraries just turn their lawyer-centric system on its head and put books like Nolo publishes and other self-help books up front as an avenue in?

Believe it or not, this is a little side story, typical things that go on along the way. The Alameda County Law Library, which is a big library, where I used to go and do research all the time for most of the seventies. The first ten years or so of Nolo, they would carry no Nolo books even though it was a public library, not funded by lawyers, but funded by the filing fees of people. Lawyers were on the board of the library and every year Nolo books would come up. The librarians would say that because more and more people would be coming in, self-helpers trying to get help. "Gee, we really have to have Nolo books in here." But lawyers would say, "Not over our dead bodies. They compete with us" Finally, 1979, 1980, I walk in and the whole wall behind the reference desk is Nolo books. It went from none to having shelves of them right up front. "What happened?" I ask. The head librarian says, "Oh, yes, I was going to call you. It's really a funny story. We went to the little committee

of our advisory lawyers and again we brought up Nolo books. Again someone says, 'Not over my dead body.' But then another lawyer, a newer guy on there said, 'Wait a minute. I don't think you realize that lawyers use those books all the time.' And another guy says, 'Well, it's true. I've used them.' And then the first guy says, 'Well, if lawyers use them, then fine.'"

08-00:54:23

Stein: Wow.

08-00:54:24

Warner: Yes. That was just so typical.

08-00:54:25

Stein: Such an insider's game.

08-00:54:28

Warner: Yes, such an insider's game. So the Nolo News was our sort of political vehicle. In the larger sense, we thought making law more democratic, accessible, fair was a decent thing to spend your life on. If you just didn't worry about crass capitalism too much, seemed to be paying the bills most years. Some years we'd have a financial crisis. But being seen as helping people was also good for expanding the company. Because it's like Ben & Jerry's or something, people like companies that treat them well and that stand for something, I think this is often lost in American capitalism. So we decided to do that. So the political component was always huge. In fact, in the earlier days, we would have rants in every book chapter about, "Okay, this is what's happening, but it shouldn't happen. It's only the lawyers that are doing this to you." So finally, after about eight or ten years, we'd get so much feedback from people saying, "Look, we really agree with your rants and all that, but can't you just make the books helpful and less preachy." So then we sort of made up rules that our authors could rant in the introduction and if you were a person that really needed to rant, we would give you an extra chapter. Like the traffic court guy, Dave Brown, who would see ninety-eight percent of traffic tickets as city taxes with nothing to do with safety and that kind of thing. He just couldn't stop himself. I think it's probably still in there. "Dave," we would say, "you bore people with a word about the corruption of the system except in the ranting chapter." I used to have a ranting chapter in my small claims book about how the whole legal system could be remade around the small claims court model.

08-00:56:26

Stein: We've got four minutes left. I'm curious. Was there any overlap with the issue of people representing themselves? Or was it a separate movement?

08-00:56:43

Warner: If Nolo had a book on the subject, people who were going to represent themselves would grab that book. But there were certainly, from Black Panther time on, mostly on the criminal side, people saying, "I'm going to fire my lawyer. I don't care if it's a murder case. You're just some white guy. You

can't represent my interests," and that kind of stuff. I guess the answer to that is Nolo's done relatively little criminal stuff. We have a couple of criminal books which are quite popular. Our general position and feeling has been everybody should have the right to represent themselves. At the same time, the more you're in an area with high levels of jeopardy, jail being a jeopardy, or high amounts of money kind of penalties, it probably does make sense for you to have some level of help. Not necessarily and not always because sometimes your help will be worse than useless and some people are very competent to make their own decisions. But yes, the ideal expert system in anything, whether it's accounting or it's building a deck or it's representing yourself in the legal system is the same. You want to be able to have reasonable access to all the information, all the procedures, every single part of it, and then you can make a decision as to how much help you need, how much you want to pay for it, how much risk you want to take, all of which is based on how competent you are, what the political sensibilities are and what the costs are. There are fifty-seven considerations. With the legal system we inherited, it was such a closed book and there were so many barriers that before Nolo you could never get to that kind of point as you would with your deck, where you might say, "Gee, if I want to frame it myself, I'll frame it. But if I want to get somebody else to do the electricity, fine. I want to get somebody else to pour the concrete, fine. But wait a minute. My dad taught me how to pour concrete. It's not that damn hard. I'll pour the concrete, too." The legal profession now calls a mixture of professional help and self-help unbundling. We called it legal coaching. For years, they didn't like our term and they had to use unbundling. It came from the fact that in the sixties, seventies, and before, if a lawyer touched a case they owned the whole thing from the legal responsibility point of view. So that meant if you called up a lawyer and said, "I want to pay to talk for an hour about my family law situation." If the lawyer said yes, under bar rules, he or she would in a sense be responsible for representing you forever. That put the lawyer in jeopardy. They did this sort of deliberately so that, in a sense, wouldn't have to. The lawyer would then say, "Well, I can't take that case because I can't just do this simple thing that you want me to do, which is you pay me a hundred bucks and I give you some advice. No, no, no. I have to own it all. Otherwise, you could come back a year from now and sue me for malpractice because I didn't do the whole thing."

So starting in the early nineties, we were definitely part of this movement, through all sorts of boring hearings which I mostly avoided, ABA things or California Bar things. But gradually the rules changed so now "Okay, now it's okay for you to go to a lawyer, get some advice, go to court, file papers, do it yourself, go back to the lawyer, get some more advice, as long as it's clear that you're handling the case, that they're not. It's legally okay. We're going to break that old rule." So in our lawyer directory now we definitely have lawyers, if you graze through there, who say they will help self-helpers. Now many lawyers say, "I will help you help yourself. I'll do part of it." So that's

another answer to the first question on the self-help stuff. Yes. So subcontract out parts of it that are the hard parts or the hard parts for you.

08-00:60:57

Stein: All right. We'll stop here.

[End of interview]

Interview #5: August 8, 2009

Begin Audio File 9 08-08-2009.mp3

09-00:00:00

Stein: All right. It is August 8, 2009. I'm here with Jake Warner at his house in Berkeley. All right. So let's just get started. You wanted to talk some more about books and publishing.

09-00:00:17

Warner: Yes. How was it that a company like Nolo could get started by a bunch of completely inept businesspeople or people that had no idea about business whatsoever? Neither Ed nor I or Toni or anybody else had any trade skill whatsoever. The divorce book and the tenants book and a few of the first books got typed out on an electric typewriter, taken to some local printing company. Using the word "book" is almost a reach—pamphlet might be kind of a better word. How did you turn that into a business? The answer to it is really pretty interesting, I think, because it was really in 1969 or 1970 that the oversize paperback trade book was born. Our first books were really very, very early in terms of this publishing revolution that took place. Publishing had been controlled by a few East Coast publishing centers forever – mostly New York City, to a lesser extent, Philadelphia and Boston. There had been always little outposts around the country, small presses, regional presses. Still, ninety-five percent of it was controlled in New York and your imprints that had been the big labels in the twenties or thirties, your Scribners or your Random Houses, still were in the sixties and seventies, although you were starting to get conglomerates, CBS and other people coming in and buying up publishing companies. The idea was that whoever controls content is going to make a lot of money, which has never really been true. It's always turned out to be who controls delivery systems that makes a lot of money. Witness the internet today. But every five years there's a fantasy that whoever owns a lot of content is going to be king of the media world. So a lot of TV and other media conglomerates starting buying publishing companies.

The focus in New York was people who had gone to Ivy League colleges, with a lot of women being the kind of low-end workers in the publishing business. Smart people who had gone to Radcliffe or whatever, and were spending two or three years waiting to get a husband, so they'd kind of go into publishing and be very smart people who were just basically being paid crap and being exploited.

09-00:02:50

Stein: Was it a very feminized business?

09-00:02:51

Warner: Well, it was a very male dominated at the top business, but it was one of the first businesses where women could really succeed. Because of the fact that women's education had really been happening long enough, and probably originally it was mostly Smithies and people. Even before Ivy League colleges

admitted women. People would go to Bryn Mawr and learn Latin and be brilliant and get out and want to have a career, at least for a while. What were you going to do for a few years before you had babies? Well, publishing was a good option—so yes, women were really coming into it. But it was going to be another ten or fifteen years before women starting getting high enough up that they started getting, here and there, the top spots in publishing.

But the larger picture was very sort of monolithic. All the publishing companies in New York looked pretty much like each other. Oh, yes, you know your Knopfs over here who did a little bit more scholarly and history stuff, and your Fawcetts or your Crowns over here that were a little more popular self-help type titles. But all paperback rights in America were, at that point, and I'm talking the fifties, sixties, mass market paperbacks. We still have a few of them today in airports, like Tom Clancy books. But today, if you go into a bookstore, half the books are in paperback and they're in all kinds of different sizes and all different kinds of price points. That just totally didn't exist when Nolo started. What existed were hardbacks, which were sewn in those days. So they were reasonably expensive. You could pay twenty bucks or something for a hardback forty years ago, where you'd pay, what, twenty-five bucks for it today. But over the years they learned how to glue them and mass produce them. So today it's basically no more expensive, or marginally more expensive to produce a hardback than it is to produce a quality large-format paperback.

But quality paperbacks didn't exist. The first one that had any residence at all in the larger world was the Whole Earth Catalog. Stewart Brand's little magazine turned into this amazing book, which later spurred whole tradeshow around the country, at Moscone and other places, where they put all this stuff together about odd Japanese tools for carving, solar powered lighting and heating, kits for making your own house. All kinds of alternative lifestyle stuff and made it into this catalog, this big gigantic hippie catalogue. It had a picture of the earth from outer space. That famous NASA picture on a black cover. That was done in the Bay Area and distributed by a company called Book People, which was based in Berkeley and had been, for years and years, a—I don't even know what the old name was—a very small regional book distributor owned by some family that went out of business or sold out in the late sixties, around 1970. It was taken over by some young people that worked with long beards and long hair, whatever. So the hippies had a book distributor. At that time, along comes this Whole Earth Catalog, which goes and sells over a million copies almost immediately.

09-00:06:16

Stein:

Was it a how-to book or literally a catalog of things you could purchase?

09-00:06:18

Warner:

A catalog. It was a catalog. Page after page of new age stuff that people couldn't get enough of. Sections on hemp clothing. Just the whole gamut. You

could buy probably hash pipes. It had articles interspersed from the Whole Earth Magazine. The Whole Earth Review I think still kind of exists. So they had all these sort of wacky leftie anti-war voices, and voices that were involved in prison reform and feminism and especially the back to the land commune movement. Remember, this is a time where we actually had pre-feminist parades in San Francisco, where women were waving their bras around over their head. So there were a million strains held together by the anti-war movement in the sense that everybody had a common touch point. But that book was published and it catapulted Book People into sort of national prominence because it was the only place you could get the book.

As it happened, New York publishing was completely out of touch with the baby boom. They were just publishing 1950s style books like record labelers were still putting out Frank Sinatra or something. There was a complete disconnect with Berkeley, with Madison, with Austin, basically, increasingly, the coasts. It wasn't that everybody in the baby boom was leftie or hippie or what. In fact, the majority of people weren't. I can remember being at Cal where the lefties were surrounded by fraternity and sorority kids. The majority of kids were throwing eggs at the people who were protesting. Now we remember that the whole generation was protesting, right. But we had this moment in American history where suddenly the West Coast ruled. Berkeley and a few places like Berkeley ruled. Anybody could start a publishing company if they had a fresh, hip point of view. Believe it or not, nobody had done a modern book, a paperback book on how to get a job. Famously, Phil Wood, who just sold his company—he's an old guy now, and ill—started Ten Speed Publishing, which at one point, I think, was probably a forty million dollar in sales company, starting with *How to Fix Your Ten Speed Bike*. Hence the name of the publishing company. But one of his earliest books was a book called *What Color Is Your Parachute?*, which is still on the New York Times bestseller list. The company just got bought by Random House in large part because of the sales backlist on that book published almost 40 years ago. But that was an example of, okay, here we're going to take a paperback accessible format and give people information in a way that New York never could have done it. They would have produced a hardback tome by some experts instead of a wacky minister asking readers to visualize their perfect job. *Our Bodies, Ourselves*, is another one that still might be remembered, as well as *How to do Your Own Divorce*, the *California Tenant's Handbook*, the kind of stuff we were doing.

Walden and Dalton, the chain bookstores, came along a little later, and of course, Barnes & Noble and Borders much later. But anybody could start a bookstore in those days and for a while, it seemed as if everybody did start a bookstore. We lament the closing these days of so many independent bookstores. Well, a huge number of them weren't even started until the mid or late sixties and seventies, where somebody like Fred Cody, who had not much business sense whatsoever, could open a paperback bookstore on Telegraph Avenue at a time that a whole bookstore for paperbacks was shocking. Later,

of course, it carried hardbacks and became a full range bookstore, but it started out just as a little place you could buy paperbacks and trade paperbacks, as we called the new kind of book, the original book that was big then was four inches by six inches and just a reprint of a novel. Just to be clear, a mass market paperback was almost always a reprint of some novel or a history book or something that was well known enough, it sold enough numbers that a New York publishing company would sell it off to a paperback house in New York and republish it for sale on spinner racks.

09-00:10:48
Stein:

They all started as hard covers first?

09-00:10:50
Warner:

It all started as hardcover. It all started through the editorial lens of a very small group of people who had been to Ivy League colleges, and were publishing exactly like the 1920s really. So along comes not only things like the Whole Earth Catalog, but what was a famous book at the time, Nude Beaches with a naked woman on the cover, or at least naked from the waist up and a list of every nude beach in the country, or at least on the West Coast with just lots of naked pictures. It was like the National Geographic soft porn. It just sold and sold. People would do books on homemade houses. The hippie thing was in full form. Loads of people were actually going and having very serious meetings, pooling their money and going and buying land in Mendocino County. I was at many of those things and, I think I mentioned earlier, taught some classes in how to do that.

But it was a Tom Paine kind of moment where people could actually publish pamphlets, small books, any kind of wacky size and make a few bucks. One of our first books we did with purple ink because we just thought it was so much cooler—I think we were maybe a little stoned at the time—probably dancing around the kitchen table. So we actually paid extra to have the presses cleaned and to do it in purple ink instead of black ink.

The kind of flowering of all these—I don't know whether we want to call them repressed ideas, but feminism being one. Any kind of lesbian, gay, transgender kinds of issues, loads of anti-war titles. On and on and on. All of a sudden, from the mid-sixties through about 1980, it all just got kind of released and everybody, the first thing they did, or some people, was start a publishing company. So there were literally thousands in the Bay Area. Groups like Friends of Books and Comics would hold a trade show in San Francisco at Moscone, like 10,000 people would show up just to see what all the kind of new ideas were. So for us at Nolo it was really exciting. We would start going to the national book shows, which had been dominated by the big publishers and all the little small presses and the newbies would be off in the corner at kind of card tables in the other room. We'd all fall in love with each other, go to parties. The distributors on the West Coast like Book people and Publishers Group West would have these big parties. Tipitina's in New

Orleans, that kind of thing. The old line publishers would be having some like little canapés and things and they would be killing to get tickets to our dancing parties. For a bunch of years, literally, none of us ever had to have a hotel room because we would just kind of go to the parties and stay with all these young people from New York who were in this other world but who had expense accounts. It was just like who were you going to spend the weekend with and who was going to feed you?

09-00:13:54

Stein:

So it really felt like a giant community?

09-00:13:56

Warner:

Oh, it did. It did. There were a bunch of people that were starting to do travel books. Lonely Planet was an example, Moon Books, Ulysses, half a dozen others. Before it was pretty much just Fodor's and Frommer's and that was it. Now, wait a minute, it's us. It's the baby boomers. We don't travel that way. We want hidden Hawaii, we want Mexico off the beaten track. So we would create our own industry. Well, halfway along there, another company called Publishers Group West came along, which still exists in Berkeley. They kind of shared the new age distribution business with Book People. But the important thing about all that was that you had a distribution mechanism. So we actually had a place, from the first day of Nolo, where we could take our books, have them in first one distribution warehouse, then another warehouse, and have them available for bookstores to buy. Well, nobody knew about them, and of course, it didn't help that, in terms of selling books, that we had this vibrant and interesting community. We couldn't survive just buying each other's books. You had to go out and convince the world. That's where—I talked a little bit about this before—Toni and I and several other people at Nolo just kind of went on the road. We just became media whores basically. For us, it was just totally fascinating since we also had a cause - law reform and in providing alternatives to lawyers. Eventually we made it onto Donahue, the Oprah-type show at the time. We'd fly to Chicago and do Donahue. The next day, Toni and I were in Detroit doing Good Morning, Detroit with the Spinners. Oh, my god, here comes the Spinners, this old rock and roll group from the sixties, African American guys who had been three-quarters famous. The Motown Group. By this time we're probably talking about 1980, so these guys are a little middle aged, paunchy, and in they come and they're shaking hands. This is seven o'clock in the morning. But fifteen minutes later, they're in the dressing room. Out they come with their girdles on and their green tuxedos and they're doing their Motown songs because they're promoting some big Motown revival in Detroit. Michael Douglas was on that show. So those would be the most fun big ones. It was always fun to go to New York, do the Today or Good Morning America shows or something. It was a lot less fun to go to Modesto or Bakersfield. Literally, if you've ever seen the old movie Coal Miner's Daughter where she's trying to get to the radio station and looking for the tower out in the field. Literally more than once, we're on the

air in fifteen minutes and still lost out in some field with our old car looking for a broadcast tower.

So in addition to doing the law part of stuff, we were kind of just embarked on this interesting journey of how do you make this publishing company—which never could have happened without this sort of revolution where publishing really switched, a lot of it, to the West Coast for ten or fifteen years. Until the Vietnam War ended and then later AIDS came along in the eighties. But basically, people just ran out of ideas. All the ideas became less fresh and exciting.

09-00:17:39

Stein:

In the public memory of the hippie movement of the sixties, publishing doesn't get that much play, doesn't get that much credit. Do you think it was critical to the movement?

09-00:17:50

Warner:

Yes. I think it was absolutely at the core of it. Part of it was the alternative newspapers, of course, that really linked things together. In Berkeley, we had the Berkeley Barb, which came before the free weeklies and the Bay Guardian. There were similar papers everywhere around the country. It was like the first City Lights kind of bookstores that carried books that you wanted to read and exciting stuff. The Berkeley Barb would have a combination of anti-war rhetoric, sort of lefty political rhetoric in terms of free soup kitchens everywhere. The sort of hippie ethic carried out to the nth degree. But what linked a lot of this stuff together were naked pictures of people. Everybody in the country was suddenly between aged about twelve at the lower end and twenty-five and you had this time in American history where the social dialogue just switched and young people took control. This really only happened three or four times in American history. But everybody had their parents' rules and it was like everybody on the same day figured out that they didn't want their parents' rules and just went to the other extreme. So smoking dope was part of it. Millions of people in a certain class and place suddenly started smoking dope, like within a year. Right. You'd go to a Bread and Roses concert in Berkeley in 1970 and as if, on one beat, all the women would take their tops off as the men did. Everybody would be sitting there naked to the waist while Mimi Farina or Joan Baez was singing. Where did this come from?

09-00:19:50

Stein:

If you had to pinpoint it, would you say in your experience it was 1970?

09-00:19:54

Warner:

Yes. In popular history, what we think about is the summer of love, sixty-six, sixty-seven. Just as we think of the student revolution as being Mario Savio standing up in whatever it was, sixty-three or sixty-four. It'd be like going back and thinking the history of the American Revolution in Boston or New England was really about the Boston Tea Party or something, right. What was

interesting about what happened was a community of people with alternative views was created and lasted for fifteen years that was like really not just even on this continent. So yes, you had these moments, these kickoff moments, but the awakening of various groups, women being probably the largest group, was profound and lasting. Oh my god, in the 1950s or early 1960s, people really expected, if a woman went to college at all, and if she worked at all a couple of years she would spend the rest of her life in the kitchen raising kids at least in the middle class in America. The kinds of people that influence opinion, of course, upper middle class, middle class types, oh my god. Within just a few years, in the late sixties - completely out the window. The gay/lesbian thing, from the closet to Main Street overnight and on and on in terms of other groups. It was all held together by the massive anti-war movement. Every time things would flag a little bit, Johnson or Nixon or somebody would attack Berkeley and places like it, right. Their only real success military was sending the National Guard to Berkeley. It never worked in Hanoi, right. So we'd have these moments of tear gas. Toni was really involved in guerrilla graphics at Cal. Hundreds of students coming together to do these posters, which are all silk screen things which are all in museums now.

But publishing held that together to a large extent, to answer your question, and the newspapers, alternative newspapers. The most alternative newspaper we had in America before the late sixties was the Village Voice, which had a little bit of an alternative patina, as well but was mostly a sort of intellectual beatnik paper, for people that have revolted against plain vanilla society around leftie kinds of issues in New York. But yes, that spread everywhere. You could go to somebody's house in the seventies and you could see twenty books lying around, none of which had been published in New York. So that was exciting. I mentioned ABA, the national book convention which still exists. It's called the BEA now, the book something expo. But for many, many years, it was the American Bookseller Association's convention. So Toni and I were very proud that we went to the ABA every year, but not the American Bar Association, which we've never been members of. It's really a voluntary trade group, not something lawyers have to join. We would just go off to our ABA. Literally, out of 25,000 people, maybe three or five thousand or something would be, by the mid-seventies, the alternative group. So it's easy to look back at a lot of what was happening and say, "Oh, my god, they're just kids. They were really so naïve and most of the stuff, a lot of the ideas that people were putting forth, free love, free this, free everything, were really not built to last.

At the core, or central point, of all movements in American history are trends. The baby boom coming of age and all their enthusiasm just moved history. That was a big inflection point. I mean, again coming back to feminism being one of them. So it was just fun to be part of that and it was possible to do self-help law, to get our books out there, to get published because there was this whole like excited alternate infrastructure. It was a little like—I don't know, in

the early seventies, you would go off on your vacation to Koh Samui in Thailand or Lake Atitlan in Guatemala or we would often go up to the islands off of British Columbia places you had never heard of a few years ago. It was called the hippie trail, right. There'd be just this gathering of people. If you go to a beach when I was a kid or if you go to a beach now, there are a bunch of people on the beach. People tend to look around for an empty spot. Where's the most empty spot? I will go sit there. So even if twice as many people come, the space between the empty spots get smaller. But not in the sixties and early seventies. For five or eight or ten years there, if you were able to hold up your fingers in a certain way, wore a certain kind of clothing uniform, had a beard or long hair or a multicolored long skirt, you'd walk on to the beach and people would come over and say, "Hey, man. Hey, brother." And it was like, "Oh." Everybody would be sitting together. Right. You'd be up on some island and people from all over, a butcher's kid from Queens and somebody who had just gotten their PhD from MIT or whatever. Everybody would be sitting there in their tie-dyed shirt stealing oysters and eating raspberries from the raspberry patch with a little shake and bake for the oysters, not the raspberries. Sitting around and having this community. It was amazing. There were places like Esalen and others. That was a big part of the alternative publishing thing, too, all the gestalt stuff. We can fix ourselves. Our bodies, ourselves, we're part of it. Loads of new age books on pop psychology were published. We can do Feldenkrais now. We can do this, we can do that. A friend of mine Sally Rasberry did the first self-publish book just on stretching, believe it or not, Rasberry's Stretches. It was a big success. Just the idea that you could do yoga led to the first yoga books that were published on the West Coast.

So anyway, to end all that, what was really funny was for a bunch of years we'd go to these book shows. Gradually we went from having just the table in the corner to having a real booth, selling lots of books, to having people from New York publishers come over and try to copy our books. Around 1980 we had done a co-publishing deal with Addison-Wesley, a publisher in Boston that took our books national and paid us a fortune to replicate them, because we were mostly in California. That lasted a couple of years. We did some book deals with Fawcett, a big paperback publisher at the time, because Toni and I had done a book called the Living Together Kit, which came out about the time—there was a movie actor who's probably lost to history now, Lee Marvin, who had been living with his significant other, who sued him because he had promised her—whether or not this was pillow talk was the big argument—that they were going to share everything as if they were married, but they were living together. Marvin put out in his defense that under California law and under the law of most states, it was technically illegal for unmarried couples to live together. Cohabitation was a crime. So anything to do with sex, like fornication, was a crime. They had all these odd, weird words. If you lived with your boyfriend, you were technically a criminal in most states. So Marvin said, well, the contract can't be legal because it was entered into by people who were outside the law. This was his defense, right.

So anyway, the California Supreme Court, in this momentous decision, the Marvin case, which is still big, bigger than the movie actor—he was in the Magnificent Seven, which was based on the Seven Samurai. Anyway, they threw all that out. This was typical of the time. Now, basically, it's legal in all states for unmarried couples to have agreements, contracts that can be enforceable. It's no longer illegal to live with somebody, except in maybe South Carolina. So we had done just a Nolo kind of book on law for unmarried couples. Well, in every kind of hippie venue or lefty venue in the country, tens of thousands of people had sort of moved in together and then gradually started fixing up the house, and eventually asking, who owns the house anyway, how do we write an agreement? And people were just showing up at Nolo all the time, or our friends, saying, "Oh, my god. Help us." So we just typically wrote it down as a book.

09-00:29:23

Stein:

Okay. This is what spurred the idea for the book?

09-00:29:25

Warner:

That's what spurred it and then the Marvin case came along and suddenly it became like hot news everywhere, front cover news. We were in People magazine. Toni and I had a big spread with us lying on a waterbed. Of course, they needed us because we were living together. So we'd not only written the book, we're living together. We were just interested in selling books and talking about all this practical stuff. How do you write down an agreement where, for example, say the woman—it didn't have to be a woman—one person in the couple had gotten a house, somehow bought it or in a divorce settlement, whatever, had some equity in the house and the other person's moving in and fixing it up. So we're just doing all this practical legal stuff on how to write this down and they're, of course, coming over and wanting to take pictures of us lying on a waterbed with me kind of naked to the waist and Toni with her clothes on but smiling as part of this hippie lawyers scene. So hey, if it sells books.

09-00:30:23

Stein:

So you became poster children.

09-00:30:24

Warner:

Someplace we have the People Magazine. Anyway, I think that publishing really held together the intellectual ferment for a lot of people and it really made it possible for Nolo to kind of succeed in a lot of ways, because we had this big community of other people. Every time you turned around, you'd talk to somebody in another small press who knew where, "Oh, there's a printer over here, there's a cover artist over here." How do you do your typesetting? We had to learn how to be in business, which we surprised ourselves by doing.

We were still in the courtyard off of Sacramento Street where a co-op housing place is now. But Nolo had a discrete part of it. We'd order books 3,000 at a

time. We'd arrange to have them stored places. We had to get orders from people, book stores, publisher Group West, Book People, then we had to hire sales reps and so on. In the beginning, of course, it was Toni, Ed to an extent with the divorce book, but that's just a whole other story of Ed frittering off to Canada. But there'd be three or four of us. Keija Kimuro, who I met at a dance class who was the other Japanese hippie girl in Berkeley who was our buddy and worked for us. She arranged publicity and would work half-time, come into the attic and sit there with a typewriter. Figuring out just how to do that was interesting.

09-00:32:06

Stein: How quickly did it ratchet up?

09-00:32:09

Warner: Well, it could have ratcheted up a lot faster if we hadn't had this attitude that we didn't want to work too hard. This sounds odd now, sitting there with a big company. But through a lot of the seventies—Toni was going to law school for a part of it—I just basically thought that people lived their lives backwards and I didn't want to live my life like my parents or maybe my grandparents, other people. Where there was massive striving in the early part of your life, people working ten or twelve hour days to succeed and then people would get to be what looked like old to me at the time, fifty or something, and their whole goal was to sort of have money and retire early. I thought, well, wait a minute. The most fun time is now, or at least this is the time I'm living in right now. So I only want to work a few hours a day. So I got totally involved in improvisational theater, I may have mentioned. So I was going doing these workshops all the time and we were putting on these performances that nobody would come except our friends and dog. I think I talked about that. So work was, at most, three or four hours a day and then there was all this wonderful and fascinating stuff that was going on. We were spending a lot of time up in the mountains backpacking. Remember, I had two kids from my earlier marriage. Goal number one was to stay close to them, and so going up to Canada a bunch, where they were living and then later to Idaho. They would show up in the summers and Toni and I would suddenly be parents of a nine and eleven year old. Thank god Toni was hanging in there with this with me. So we wouldn't be working very much. We would just be hanging out with the kids.

09-00:34:11

Stein: Now, was that quite a shock for them, to go from Idaho, let's say, to the middle of Berkeley in the middle of the hippie revolution?

09-00:34:17

Warner: It was. And then we'd take them to Disneyland or something. Jean, my ex-wife, had actually married this slightly wacky Vietnam veteran, not quite functional guy, who wanted to be an artist. He is an artist or was an artist. But in this town, Kaslo, with one blinking light in front of the RCMP headquarters, the police and they had this little storefront to try to sell art in

this town in the Canadian Rockies. So they had no money whatsoever. But Roger also had this sort of right-wing wacky view. So the kids were living out on the land, carrying their own water, no electricity in a house that Roger had built, but not part of any kind of community. All the stuff that was going on in the sixties and seventies went right past them. They were trying to go back and do this like it was 1840. So there were some good parts about that, I'm sure. Learning a bunch of self-sufficiency. But the kids were basically somewhat miserable and they would just show up in Berkeley and suddenly everything would be in Technicolor. It'd be a lot of fun. They had Toni as their substitute mom. So they were like the best behaved and most sweetest and wonderful kids ever because as they would say later, "You know, we'd always be afraid that you weren't going to invite us. We weren't going to be able to get the hell out of there." Eventually Jean and Roger moved to Idaho, and they separated at which point things got a little more sensible for their junior high and high school. They live right here now. Andy and her family lives almost next to us.

09-00:35:57

Stein: Oh, that's great.

09-00:35:57

Warner: So there are grandkids and stuff. Yes. Well, when they got to vote with their feet, the Bay Area is what they picked—so everybody's little family history is different. But it was a challenge for us to stay really as involved in their lives as we could without trying to get involved heavy duty. I had enough experience in the law to know that custody fights and miserable family battles only make things worse. So I was kind of dealing with a dysfunctional ex-spouse and a dysfunctional situation and Toni and I were just trying to do it the best we could and hope the kids got through it, which they more or less seem to have.

So the attitude towards quality of life really did influence us. Nolo would do a book or two a year. We stopped. This is a little book, a children's book we did for fun.

09-00:36:57

Stein: Let's take a look at it.

09-00:36:58

Warner: —that has some of the stories that we've done later, Tall Tales. The original Clem stories were a part of that. We did a book that I have at Nolo but I don't have here on some of our adventures tripping around the wilderness together and separately and trying to deal with monogamy and not monogamy kind of stuff. Called Ups and Downs. We wrote a mystery book that was actually quite popular in the Bay Area for a long time and is still, now and then—turns up UC Berkeley did a retrospective on books about the Bay Area and mystery stories about two years ago and there it was again.

09-00:37:43

Stein:

What's it called?

09-00:37:43

Warner:

It was called the *Murder on the Air*. If you go on Amazon or you go in some libraries around here—somebody gave me a copy the other year where some library in Oakland was selling off old books and it was out there. We sold like 10,000 copies of it. It got a great review in the *Chronicle* kind of thing. But we just sort of decided, "Well, anybody can write a mystery book," right. Let's just do it. So it was kind of in that spirit we would do a lot of things. So you'd take six months out from writing the next book on marriage and divorce law or how to incorporate and we'd write a mystery book because it just seemed like an okay thing to do.

So it wasn't really until the end of the seventies, around 1980, that we started getting—if I looked at it back with say a grown ups lens, my father's lens perhaps, I would say—that we started really getting serious about business. Part of that was we gradually started accumulating some really smart people in terms of other dropped out Legal Aid lawyers or just people who would show up on our doorstep who had law degrees and who didn't want to be lawyers. Dennis Clifford, who started doing estate planning books for us, many of which are still in print. *Plan Your Estate*. A guy named David Pressman who did a book on patenting, doing your own patent that Prentice Hall had published and it totally failed and he showed up and we helped him rewrite it and published it, and it's since sold 300,000 copies. It still sells 15,000 a year and it's a fifty dollar book. Anthony Mancuso, Tony Mancuso, started doing books on how to do corporations, later LLCs, and non-profits. He's probably done twenty of them for us. He's spent basically his life being an author for Nolo. So we started gradually building out our expertise and in about 1980, a guy named Steve Elias showed up. Steve was born about four days apart from me. He had been a Legal Aid lawyer, had been in Synanon for a long time, had been a public defender in Vermont, a public defender of the Northeast Kingdom of Vermont, as they call it. He'd moved back to the Bay Area. Steve was almost forty years old and had no job and just showed up at Nolo and was asking to talk to me. Toni was in one of her phases of, "We're not hiring any more people." We had about fifteen, maybe twenty employees by the time Steve showed up. Toni's cry was always, "Back to the attic." By that time, we were on Ninth and Parker in West Berkeley, and had been there for a couple of years and we'd expanded maybe a couple times in that building. But we had nothing like the space that we have now. So Toni had been at meeting saying, "Oh, my god, this company's too big. This is not what we set out to do. This is going to ruin our life. Let's go back, get back to the attic," kind of was her cry. So when Steve had called up, Toni's job was to go out and tell him that we were contracting. We weren't expanding and there was certainly no job for him at Nolo. Then two hours later, she comes back from having this really excited lunch having hired him. So that was really lucky.

Steve lives up in Lakeport now, runs a community radio station on the side. Every thought I ever had about law reform, Steve had it first or he had it thirty seconds before me or thirty seconds after me. It was like cloning myself. So having Steve there in the sense of now getting back to some of the law reform stuff really allowed us to start having a bigger impact. I'd start saying, "Well, isn't most of the way laws practiced in America, the minimum fee schedule, no prohibitions on advertising, prosecuting the competition and so on, isn't it basically organized consumer fraud?" And Steve said, "Exactly what I thought. All consumer fraud. Show me one part of personal law that isn't consumer fraud." So we started publishing something called the Nolo News, and this is, again, back to publishing. So suddenly we decided that instead of putting out just a catalogue for our books—let's say we had twenty-five, thirty titles for this point—we would put out something that was helpful for people. Later, people called it a magalogue or a catazine or what. But the idea was, okay, you'd have your books and then you'd have all these articles, some of which would be self-help oriented but a good portion of them would be law reform oriented.

So this is where we'd start doing whole sections on plain English, putting law into plain English. We were allied with a group in Washington, DC, a law reform group called HALT, which had started around 1980. I don't want to digress too much but there was a woman in Florida named Rosemary Furman who started her own divorce law typing services, the kinds of things I was talking about earlier.

09-00:43:27

Stein:

Like independent paralegals?

09-00:43:29

Warner:

Independent paralegals, right. There were several terms used. So Rosemary had just been a former legal secretary who just put a sign out one day because she was so fed up with the lawyers and the legal system saying fifty dollar divorces. Well, Florida busted her. She was on the verge of going to jail. They sentenced her to jail for a year or two when Sixty Minutes got a hold of it. Mike Wallace did this thing and blew it up nationally. This group HALT, which had just started in Washington, a couple of guys talking about the kinds of issues we were talking about. So obviously law reform wasn't just Nolo. So HALT got a hold of Rosemary Furman's story and the Sixty Minute thing and started doing direct mail pieces to the whole country. It was kind of like the early days of Green Peace on a smaller scale, where suddenly your mailbox would be full of clubbing baby seals. Well, eventually, ten years later it stopped working because everybody did it. But in the early days, you could just send out, in the late seventies or early eighties, you could send out almost any hysterical mail piece asking for money and if you hit the right note, like clubbing baby seals, or in this case, putting in jail a sixty year old woman who was just doing divorces for fifty dollars for people and, by the way, was very profane and had loads of stories about what rip-off artists lawyers were.

So we kind of buddied up with Rosemary and she came out to California. The spirit of the Nolo News was very much kind of like that. We would do an issue taking apart the language that was used in courtrooms, back to the plain English thing, that prevented people from understanding. We would take apart law libraries which were paid for by filing fees but were done in a code that the average person couldn't understand. There was a book I found this morning that was written by a person who was a friend for Budget Times called Injustice for All. Basically how our adversarial system of law victimizes us and subverts true justice. Ann Strick was one of the early people who were talking about mediation as a total alternative to the adversary system. America had gone off on the idea that justice was best served if you took two people on either side of a ring and let them sort of have at it. Somehow that had gotten into the national psyche. In your average movie, we've got young Abe Lincoln over here and we got the adversary over here and we're going to cross-examine. When it came down to, say, divorce court or whatnot, you had a system where you have a judge, a middle aged man or woman, mostly a man in those days, who doesn't know the people, a couple of lawyers, one of whom may be talented and one of whom may be not, some very upset and angry people who have been encouraged to think that the legal system is going to provide them justice, that such a thing exists, and you've got lawyers that are charging by the hour. The more hours it takes, the more they get paid. So in the sense, encouraging people to fight. There's a movie thirty or forty years ago called Kramer v. Kramer that really sums up. So you had this absolute fail system that was going to make people miserable, ruin lives, be very expensive, but enrich the insiders. So it would be that kind of thing. I don't have any particular claims that Nolo was at the beginning of the mediation movement. We were buddies with all those people and we wrote about it, the Nolo News and other things were about that. We did a couple of books on mediation. We were not the pioneers in that part of it. I think we were the pioneers in the direct access part. But law reform people would be working together. So it was about that.

So Steve's coming along really reinforced Toni's and my belief that you didn't have to have a company that was primarily about making money, that you could run your company as a nonprofit and people would respect it enough that you would end up with a bunch of money. It was kind of turning it on its head.

09-00:48:21

Stein:

Was this an idea that had currency at the time? Were other people doing the same?

09-00:48:24

Warner:

It did. It did have some currency. I take some credit for it in the sense of back to when I was doing Legal Aid, I would see people coming in and wanting me to help them start nonprofits. This would be a ghetto health group or education group. People just thought, "Well, gee, we'll start a non-profit and then we'll

get grants.” But they had never really thought out the organization, how they were going to do it, the programs. So after doing a couple of nonprofits for people, I would find myself saying, “No, no, no. You go out and figure out how to do whatever it is you’re going to do and where your funding sources are.” The actual paperwork of creating a non-profit corporation is just a formality. We can do that overnight. That’s not the hard part. But as part of that, I saw people, over and over again, go to the library and get a book on where all the grants in America were, and start saying, “Well, you know, maybe I don’t want to do exactly this, because they’re not funding that this year. I think I’ll do a little more of that. Oral history is really in right now, but it’s a certain kind of oral history so I’ll modify what I want to do to fit the funders.” We all did that.

So I figured if Nolo was organized as a nonprofit, a couple of things would happen. One, inevitably when the tarnish ran off the new idea, assuming we got it funded in the first place, we would be kind of answering to the people at the Ford Foundation or whoever—if we were that lucky to get funded. Also, the idea of self-help law was such a new idea and it was being blasted by lawyers claiming it was basically fraudulent and phony, you’re doing your own brain surgery kind of thing. That if in fact we were funded by your normal liberal groups, we would just be another social experiment kind of thing. I thought to really make this work, the average person has to respect it. We have to be able to run a business that will charge some money. We’re going to sell law to a lot of people cheap, as opposed to lawyers. This is what we said all the time. Lawyers are organized to sell law to a few people in an expensive format. There’s got to be a way to mass produce it, to be the Chevy plant and to take the lessons of Legal Aid and apply them to publishing.

But that came back to, okay, we needed to prove we could be a viable business. I give Steve a bunch of credit for this, and Mary Randolph, who joined Nolo in the early eighties and was the editor of Nolo News. We felt like, to keep our soul, we needed to also prove that we could move ideas and we could, in a sense, be a nonprofit within a profit format, that it wasn’t just about doing the next book on a subject that would sell. It was about taking the ten big law reform ideas and moving them forward and taking the time to go back to Washington to influence opinion. I spoke at a lot of conferences that HALT and other people organized, where you’d meet everybody in the country that was doing anything in, I guess we’d call it the legal democracy movement. For example, the probate system, which was this massive rip-off. I think we’ve talked a little bit about wills and living trusts. But maybe there’d be one state, Minnesota, that for some historical reasons, had a self-help probate window where you could actually take a will and go and go through the process of having the property transferred to the spouse or the kids without paying lawyer fees. It was this one little place that did things better. So with your national conference, as anything, you look for best practices. You bring them all together. You get people excited. Oh, they are doing something in small claims court over here in Colorado, which is actually putting mediation

into small claims court. So before you go in and even do an adversary thing in small claims court, you sit down in a room with a retired teacher – or someone to help you write it out. Well, this is totally everywhere now. This has completely worked, because it turns out most people who get mad at somebody, even if it's the kitchen contractor, you end up in the big fight, the homeowner doesn't pay because the guy didn't put the counter in right. It's a five thousand dollar fight. Nobody ever really sat down and talked about it. They just got mad, wrote letters and yelled back and forth. Somebody sued. But instead of fighting it out before a judge, why not sit down in a mediative kind of environment with somebody who has no authority to make a decision but is skilled at facilitation. A lot of these techniques came out of the sixties and amounted to mediation. Mediation has now, over the forty years, replaced a lot of the adversary system. Certainly in divorce court. You can still do the Kramer v. Kramer thing if you insist hard enough, if you blow through all the mediation, all the things that are there to help you, all the ways of the workarounds. You can still have your adversary fight and spend a million bucks and ruin your life. But it's much harder now.

09-00:54:17

Stein:

It's a last resort as opposed to the standard.

09-00:54:18

Warner:

Yes. The legal system has been very slow to change. I think we talked about lawyers reforming everybody else but themselves. But gradually some of it's happened. So we just thought, "Well, fine. We're just going to spend a lot of time and energy and money on making the system work better." But we didn't even think about it that way. It was just livelihood, doing this in addition to doing the next book on how to form a nonprofit corporation or whatever we were starting to do. Loads of small business stuff. One of the big changes for Nolo substantively was we would do a book on how to incorporate, which we just saw as a law book in our imagination. But, oh, my god, it would be shelved over with business books and this whole paperback revolution to oversized paperbacks ended up. Now, small publishers were doing books like Small Time Operator, which is still out there. It was one of the early ones by a guy named Bernard Kamoroff, on how to run your little hemp store or whatever. Suddenly Nolo started realizing that one of the areas that was changing the fastest in American law was business as government came in and started regulating everything, employment being, say, the big example. In the 1950s, you could hire people, you could fire people. The idea of any kind of a lawsuit around employment almost never happened. But by the time you got the Americans with Disabilities Act, by the time you got various laws on discrimination, sexual harassment in the workplace, on and on and on, you, in a sense, legalized every aspect of the employee/employer relationship. So what are you going to do? Call a lawyer for 400 bucks every time you have a question, the simplest kind of question, right. How does COBRA work in this situation? So we started doing a whole lot of stuff on that.

09-00:56:20

Stein:

Did you find it difficult to negotiate between the for-profit desire to produce books that would sell and stay at the forefront of what was happening in the legal world and desire to run like a socially conscious nonprofit?

09-00:56:35

Warner:

In the beginning, I think that the answer was not so much because we were like the only doggie in town kind of thing. Nolo had a remarkably long run without much serious competition because larger publishers wouldn't come into the field because of the fear of lawyers. It was slightly, from a New York point of view, disrespectful. When they did, they would publish a one off book. They would see something Nolo did and they would come in and they would try to copy that book. When we did the living together kit, there were seven or eight more that came out kind of thing. They were totally happy to try to make as much money as possible and jump on a trend, but publishers generally, the publishing industry generally, had no idea how to do legal books in a sort of coherent, structured, thought out kind of way. So what would happen is they'd publish their seven books on living together and fine. They would siphon off maybe half the business. We were out there first and ours was better. But by a year and a half later, we'd come out with a new edition with all the updated laws and they wouldn't know how to do that because they were just some editor at a publishing company dealing with some lawyer out in Paramus, New Jersey or something. So by three or four years later, all their books would be gone and we would have the franchise to ourselves kind of thing. All that started changing in the mid-eighties where the world suddenly got way more competitive in self-help law, but it really wasn't so much about publishing, it was about software. So I don't know whether we're at the end here but I need to talk about that probably a little bit.

09-00:58:15

Stein:

Yes. Maybe that's a good pausing point.

09-00:58:18

Warner:

Good pause point.

09-00:58:20

Stein:

Yes.

09-00:58:20

Warner:

All right.

[End Audio File 9]

[Begin Audio File 10]

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10-00:00:00

Stein:

Okay. Today is August 8, 2009.

10-00:00:08

Warner:

Yes. Here we are. It's exactly twenty-seven minutes after one and we're sitting here at 907 Oxford Street in Berkeley, California, having a good time.

10-00:00:16

Stein:

Yes, we are. All right, take us away.

10-00:00:20

Warner:

Okay. All right. So we get to about 1984, 1985. Nolo has moved out of the hippie attic. It's now in an old clock factory, but we can call it an office building in West Berkeley in what used to be a light industrial area. Nolo has taken over your kind of funky old building and carved it into office spaces. We've got maybe twenty-five employees, thirty employees maybe. About thirty employees and we've established ourselves nationally. We're much better known in California. But we're publishing books for the 50 state market. Hippie days are kind of more or less over. We're all like fortyish now and so people are a little more settled down. Some of us have kids and going to the grocery store on a regular basis is a little bit more of a priority than maybe it was ten years before. So we're acting a little bit more like a real business. Most years we make a little bit of money. The ethic of spending a fair amount of time doing law reform is definitely part of it and that's attracting more and more very competent people who have law degrees but who are just not happy working for a big firm or in the environment and certainly don't want to go start a street corner law practice.

We were really starting to pioneer, in the Nolo thing in a funny way, the exploitation of really brilliant women, in the sense that at the highest levels of the company, we're getting more and more women who have graduated from snarky colleges as part of the sixties and seventies revolution and have maybe been recruited to work in Pillsbury or some fancy law firm, but now want to settle down and have kids. This whole go, go, go, twelve hours a day, heavy litigator lifestyle is not working for them. So up starts showing one after another after another brilliant women who, you know, true in a weird kind of way, the tradition of publishing, are willing to work for, say, in those days, \$50,000 instead of \$200,000 because they need a 9:00 to 5:00 job. They need to be able to take off when their kids are sick, and Nolo structures a way of working where you can bring your dog to work, you can bring your kid to work. In one case, a woman brought a pigeon that she was in love with to work for years and kept it in her office and cleaned up after it with a rag. In short, you could do pretty much what you wanted.

This is just a little sidebar. By 1985, I think seventy percent of the people that work at Nolo are women. Right now, with fourteen lawyers, I think, that are more or less on staff, twelve of them are women.

10-00:03:16

Stein:

Interesting.

10-00:03:17

Warner:

So people find a compatible career. In some cases, their mates were making more. Nolo also became a real haven for lesbian and transgender people because, hey, it was Berkeley. As soon as one person gets a job at a place and doesn't feel discriminated against and feels like, "Oh, my way of being is just as honorable as everybody else's, then they bring their friends." So that's one of the reasons we ended up with so many women and a fair number of gay and lesbian employees. In both cases, not that you were setting out to exploit it, but people in some cases would work for less. Nolo being in publishing, not a law firm, could not pay the law firm kind of wages. But also, people who may be discriminated against in the larger world tend to be very loyal. People find that they're in a very supportive and accepted kind of environment and, just like for any of us, stay there.

Anyway, so things are working reasonably well until, boom, along comes the personal computer. I can just remember, I don't know what year, eighty-three or something, sitting in somebody's backyard with an Apple II, this little tiny screen, and realizing almost overnight that this was going to change everything we were doing. We were in the book business because that was the only delivery system for self-help law. As I talked about before, we had kind of fallen in love with the business and how you do it. We had our light tables. We knew all about how to buy type and cut it up into pieces and lay it down with your glue things, ship it out. But at the heart of Nolo, it was all about changing the legal system and delivering the expert system that was in a law office to everybody. But paperback books were a kind of funky way to do that, especially when it came to doing things, because we actually would publish books with court forms in the back of the books that you would have to tear out and put in a typewriter. So we would publish duplicate pages. Here's how to do it, example one, so you'd be in a sense doing your will by paint by the numbers kind of. I'm trying to choose the right word. Not pathetic. But in today's world, what you had to do. It was kind of like keeping office records before there was a typewriter or something.

10-00:06:11

Stein:

Slightly inefficient?

10-00:06:12

Warner:

The typewriter of course changed everything in its day very quickly. So I could see and Steve Elias and Toni, we could all see that PCs were going to change everything overnight because as soon as you had your personal computer, you started getting your first early funky software programs. So we had some false starts for a year or two, but we thought we just have to do this. We started with wills and it's still our best-selling program. The thing that really lifted Nolo into being a financial successful company was the idea that we did a program originally called Will Writer, but we had some trademark fights and ended up becoming WillMaker, which is still our main program that we sell everywhere from Costco on down and it's also the foundation of what we do on the internet, where people can go on and make their own will

and we call it Nolo's online will. But it's basically the same program. What software allowed you to do was really take the expert system that was inside a lawyer's head and put it down, with anything that was going to get repeated a lot of times, on to a logic tree that was pretty smart. For example, on a will, if somebody sits down and opens WillMaker, they may be single, they may be married. The program's going to find that out on about screen three. A single person is never going to see anything about their spouse, and especially if they're single and they don't have children. Then all of that stuff about your kids, appointing guardians if something should happen to the kid. Well, on screen three or four, it's also going to find out, if you do have kids, and if they're minors. Well, if they're already grown up, you don't need to worry about all that stuff. So by guiding you up the main trunk, out the branch, down the side branch—everybody's pretty familiar with how all this works.

But it was a total new movie in the eighties and really one of the last super type creative things I did on the content side of Nolo, because as time goes on, you end up managing other people, was to sit down with Steve and Mary Randolph, and a couple of people who are not associated with Nolo anymore, to write the screens. Figure out the logic with smart people. We would work sometimes for weeks thinking, "Oh, yes, but what about this? What if they have a kid from a former marriage or what if they adopt somebody?" Without going too far into it, we started out by thinking that the way to approach the logic tree was for people to say, "This is what my property is. Here's all my objects that I have. My house. Or my valuable stuff. My securities, my this, my that." Some people would write down the socks in their drawer. We would hope that people stopped a little before then. Then who are the objects of my affection? Your job is to match them up. So we wrote a program that was out and published and sold hundreds of thousands of copies to do that.

As we went forward, we started thinking, "Wait a minute. We did this completely wrong. People don't think that way really." We think they think that way. We may even think we think that way but we don't think that way. Start by thinking - who's my family? It's all about that. That's the first thing we think about. So for many, many people, once they decide their family is primarily their spouse or their life partner, or their life partner and maybe a couple of children or something, then you don't need to add up all the stuff. You've already made the key decision. So we had to turn the program on its head and rewrite all the logic things. But basically what we were doing was taking what was in a lawyer's head and putting it into an easy to use program. This program, which is now used by lawyers everywhere—there are, of course, professional versions published by people like West Publishing. But we've sold millions of copies of WillMaker and loads of lawyers use it and swear by it.

But in the 1970s or 1980, somebody would go into a law office and the lawyer would sit there and do a little interview that maybe they had gotten out of some continuing legal education publication. It was certainly nothing you

learned at law school. It would basically be how many children do you have? Is this your first marriage? Was there another marriage? Did you have children? They would extract all that information and then, because wait a minute, they'd done this before, they would be sort of filtering it through their own like brain, noting stuff down, using a form they'd used a million times before, making changes, handing it to a secretary at a cost of three to 500 bucks, say, in terms of lawyer time and secretary time producing a draft. You would come in, you would read it, you would initial it, go back and forth. My father made his living doing this kind of stuff. In the old days, it used to be proofread out loud because you would be typing from notes. We just did away with all of those costs and stuff by, in a sense, replicating the expert system that was in the lawyer's head in a software program.

10-00:11:56

Stein:

Had you done a book regarding will making before?

10-00:12:00

Warner:

Yes, and some of them are still in print. There's a book called The Simple Will book. We had a Plan Your Estate book. We had a bunch of books where we, in a sense, said, "Okay, here's a will for people that want to leave most of their property to their spouse and their kids. Here's a will for single people that want to leave property to a number of different people." So we would publish a book that had, in a sense, ten different templates and you would tear out pages and fill it in. Sometimes people even took them to typing services. But yes, the software could do all that. It would capture every reasonable possibility. We would just say, look, if people have more than—in today's world—seven million bucks is the federal income tax threshold. If you've got more than seven million bucks, you need to do some tax planning, and that involves, for spouses, something called an AB trust. We might say, "You know, we're going to cover estates up to fifteen million bucks." Because the tax planning for the people that are just a little over the threshold isn't that hard. But at some level, with everything Nolo does, we sort of make parameters. The seven million bucks one is a pretty easy one now. Ninety-nine and nine-tenths of the people that are ever going to look at WillMaker do not have more than seven million bucks worth of property, so they don't need to think about it and the program doesn't need to go into all this arcane stuff. It just needs to say, "If you have ten million bucks, go see a lawyer," right. We're not losing many customers that way kind of thing. But most of our material is kind of like that. If you're doing a bankruptcy—we sell zillions of bankruptcies, for example, books on how to do your own bankruptcy. If you have lied heavy duty to get credit in the first place, you're guilty of fraud. Chances are, if you were outrageous enough, somebody's going to come into court and turn this into a contested procedure. We can maybe show you how to do that, but we're really doing books for the ninety-nine percent of people who just went bankrupt because they're broke.

10-00:14:09

Stein: So this shift to software, when you're sitting down, making a logic tree, this is not something that you knew how to do previously?

10-00:14:16

Warner: No.

10-00:14:17

Stein: And you were just coming up with it yourselves?

10-00:14:18

Warner: Software became everything. Starting in the early 1980s, every business in America got taken over by competitors. Architecture. Before the mid-eighties, architects drew stuff on paper. By 1990, they all had these CAD/CAM programs that did most of the work for them and figured out the load bearing stuff. Almost everything. Medicine was somewhat resistant but they're kind of catching on. Designing a car, designing almost anything. So law was very amenable to this with contracts, with wills, with corporate formation documents, filing papers. It probably would amaze you and most people who are listening how simple and routine the basic information is in these things that lawyers were charging a lot of money for. To form a corporation in California or any state, you need to know the name of the corporation. Yes, you need to check to make sure you're not using the name that somebody else has used. That's fairly simple. You need to know the names of the original stockholders, the people that are starting it. You need to know the address of the corporation and where, if somebody sues you, they serve you with court papers and about four other pieces of information. Lawyers would charge 2,000 bucks for forming a corporation. A software program which we did very quickly on forming a business sold for less than \$100. Wills are way more complicated than that, but still very doable.

So many, many publishing companies in the early eighties and the mid-eighties thought that they could do software. One of the things I'm sort of proud of from a business standpoint is we actually figured out how to do it. Most successful publishers tried to do it, but the ethic of publishing, the rhythm of publishing, the style of publishing was so different from programming. All of a sudden we had these people in Silicon Valley staying up all night and eating Milky Ways and sleeping under their desks and turning into zillionaires. Why are they going to want to go in New York to be paid \$40,000 a year to slave away at Random House? So the whole paradigm shifted and so companies, for example, that are big and famous now, like Intuit that does most of our income taxes on Turbo Tax which is used by fifty million Americans every year. Before that company came along and captured the market, taxes were done by primarily people who did their own taxes using a book called the J.K. Lasser Tax Book, which is still kind of out there. The publishing industry controlled the instructions on how to do your own taxes. Somewhere along the line came HR Block. They were the paralegal equivalent of the kind of stuff we were doing with the Wave Project.

Accountants had less clout in the world because they were not the prosecutors and the judges, so they were not able to close down that competition as well as lawyers were, but they tried. So in the accounting profession, we have an example of what Nolo has been pushing all along, where you can do a book, you can do software, you can go to somebody at a card table in the back of a grocery store, you can go to HR Block, you can use software. It's your choice. Consumers make the choice.

10-00:17:49

Stein:

What would you say that it was that made WillMaker work whereas all these others did not last?

10-00:17:54

Warner:

I think it was partially because we were here in Berkeley. We were close enough to the Valley. We were able to bring programmers in-house, and despite the fact that people said this will never work, a few of us that were at the very center of Nolo got fascinated with it and started writing some of the expert systems ourselves. So Nolo's probably biggest fundamental mistake, if you wanted to ask why Nolo is a seventeen million dollar company, not a 700 million dollar company, was that we didn't just throw books out at that point and just embrace software. What we did was the classic mistake that businesses make when entrepreneurial accidents happen. Along comes this paradigm disruptor, let's put it that way, software. We're smart enough. We're right here, we jump on it, we do it. But what do we do with the money? All of a sudden Nolo is going from thirty people to seventy people to ninety people because this money is starting to flow in. What do we do with it? We do more books. We did some software, too. We did some more software programs. But oh, my god, we did lots more low profit books because we had plenty of money and could afford to.

So there's a guy named Drucker who died a few years ago but was the guru of business kind of strategy in America for about fifty years. He was one of the people that talked a lot about—I won't say most, but many businesses are started by the recognition of accidents. People like to go back and give you their history and say, "Oh, I was really smart at this point and I saw this, I saw that." But, in fact, some accident happens that people don't expect from left field, and some business people recognize it and jump on it and some people don't. We kind of had a so-so response to our breakthrough. Software came along. We were smart enough to jump on it somewhat, but unlike Intuit, say, which over that period of time decided we're just going to do tax formations and then later bookkeeping and that's it. Over the years, they have expanded to some other products, but remarkably, they had kept their focus. But Nolo was going to kind of be everything to everybody and we were going to just continue to do law reform, live our lives the way we wanted to. Which is all good. But it's also true that the legal system has kind of defied easy solutions, whether through software, to provide easy access through books or programs because of the fifty state nature of it. We have this balkanization, so that a

divorce in Nevada is really, substantively, exactly the same as one in Arizona or California, but all the forms are different and they won't accept those forms and they jealously guard that because they have their own little judicial system. They don't want California taking over. So you can't do a book for divorce in all fifty states, really, unless you are, in a sense, saying, "Okay, you send off, get the forms for your state and we'll give you some generic instructions." We do do a bunch of that but it's not as effective as going state-by-state which can't really be done for small markets. So wills were the example of an area where we could do a fifty state solution because they're not governed by any agency. They're, in a sense, a private contract. There were certain other things we could do that with. There were certain federal things that are fifty state: Immigration, patents, trademarks, copyrights. But most things, your ordinary day to day, change your name, your landlord/tenant thing, even form your corporation, it's all done state by state. Sometimes software, as in the case, if there's enough money in it, with incorporations, we could do a program that would, in a sense, capture all fifty states forms.

10-00:21:46

Stein:

Sounds like a big undertaking.

10-00:21:49

Warner:

Yes. You've got a lot of lawyers. You've got people working a long time. You're trying to do a fifty state landlords book. What you end up having to do is say, well, there are only eleven variables. We know this. We figured this out, actually. There are really only eleven major legal variables. For example, returning deposits is a huge one for landlords and tenants. Anybody that's moved out of a place wants to know, am I going to get my thousand bucks back, are they going to cheat me. Landlords going in and saying, "Yes, but they broke something or other," and the tenant's saying, "Well, that's ordinary wear and tear." Blah, blah, blah. So it becomes a little drama frequently. How long does a landlord have to give the deposit back? What kind of a letter do they have to send if they don't or if they're going to retain some of it? What are the tenant's rights? Does a tenant have a right to two times the deposit or three times if they have to go to court and win? So all around that you have to do a fifty state chart and variables, right. Then you take another whole area of landlord tenant law and you say, "Well, the lease, the rental agreement itself, the states can and do regulate that." A sad amount of what Nolo does is boring, boring, boring. Like I really enjoy figuring out the larger expert system and really hate, even though I've had to do a bunch of it in the past, sitting there and first translating all the lingo and the language into plain English. You can't simply write the term "voir dire the jury" for example as a lawyer could. You have to say in the voir diring process, which really means nothing more than asking questions of the jury. Or asking questions of the jury is called voir dire by lawyers. So you're endlessly doing that. Then you're just endlessly getting people through logical steps, and then, especially if you're dealing with fifty state stuff, you're constantly going back and forth to either charts or software or disks. So I'm kind of jumping around a little bit.

But part of our failure to do software for the whole country in every subject was probably our own lack of imagination and part of it was the difficulty of doing that, and is it really economic to do a fifty state thing where there's only like 127 divorces in South Dakota? I don't know, a thousand. Yes. So a lot of what we ended up doing was book texts with not sophisticated software, but with disks full of forms in the back of the book. Not every Nolo book, but the majority, have disks. There, in a sense, instead of doing an integrated program where you can say, "I want to form a nonprofit corporation, and by the way, I'm in Tennessee," and this and that, you would, in a sense, go to a certain point in the book and then go to your disk and/or your chart and plug in that you're from Tennessee.

Anyway, software was fascinating. That process of pulling what lawyers knew out and putting it into expert systems really defined Nolo's growth from mid-eighties to the mid-nineties, although we continued to do books. The whole world is changing all the time from independent bookstores with sales reps to now the majority of your sales are to places like Barnes & Nobles and Borders and you have all the politics of doing that. I don't know if there's ever been a time in American history where you could run a business in the next ten years with what you learned in the last ten years. I suspect probably not. Probably even if you were the ice man in 1910 in New York it all changed from decade to decade. But certainly in my career, it's like you need to change almost before you know what the change is or you're dead on the road. So that provided a lot of growth for us.

Gradually, other people came in and started doing software. We had some competition. On the book side, gradually we started getting a little bit more competition because this had become more respectable. Companies like IDG, with Dummies books, for example—I'm jumping ahead a little bit. They'd be doing Rembrandt for Dummies, Golf for Dummies, Wine for Dummies. Why not Divorce for Dummies, which, of course, they would do. So companies like that would just come to our booth or look at our catalogue and six months later they'd creamed off the best selling titles into what we would consider to be a much stupider version. But hey, if you're in a bookstore and you're upset about custody or divorce or having a fight with your live-in lover, and if a book has a good cover and is five dollars cheaper, maybe you just buy that one. You don't know. So we spent a lot of time educating consumers. We tend to be the more expensive, more sophisticated, better, much more in-depth knowledge, real lawyers working in the company kind of company. To some extent, you can educate people on that and you're still here forty years later because you have a great reputation. You're always subject to lower cost competition, as anybody is. Just take the American shoe industry or something. It wasn't enough to go out and say, "Hey, we make really good shoes in Maine and they're really excellent. We have long-term loyal workers. Wait a minute, you can buy the shoes for half as much from Taiwan." Too bad. You guys are dead.

10-00:28:10

Stein: Were the other companies able to stay as current as you?

10-00:28:13

Warner: No.

10-00:28:13

Stein: Because that seems like one of your biggest advantages.

10-00:28:15

Warner: You just kind of put your finger on why we have lasted. Probably the biggest reason that we've been able to succeed was the realization, someplace in the mid-eighties—I give Steve a bunch of credit for that—was that the core value of Nolo was its database. It wasn't individual titles. Everybody that was competing with us, and still, even Dummies now, or other people, tend to look at a subject area, employment law, and say, "Gee, there's a big demand for this. We will go find a lawyer someplace or other who's an expert in employment law or somebody's sent in a proposal. We will give them a \$10,000 advance. Go write this book. Our editor knows nothing about employment law. They're just an editor. But we will send it out to three experts in employment law, pay them 500 bucks each as a reader's fee, get their comments, stick it all together and publish it." I think I talked earlier about the fact, well, sometimes you get a good result. Mostly you don't get a good result because the person who's written the book has never done it before, doesn't understand all the logic, the good ways of communicating stuff, just like a textbook publisher is going to put people into their system because they understand how to teach. Also, they're not going to keep it up to date. They don't have a system of keeping it up to date. They don't have a good backup editing system. The person who's editorially in charge of the whole thing doesn't really understand it. So okay. A third of the time they come out with something's good. Two thirds of the time it's crap to start with.

Why was Nolo different? Well, with twelve to fourteen legal editors in-house, each of those persons sort of owns an area. So they know piles and piles and piles about probate or wills and estate planning. So if we're working on a new book, on an executor's handbook because we've identified that as a niche, the person who's worked on it is a lawyer who's been working in that area for years. Anyway, some where around about the mid-eighties, we decided we're not going to think in terms of individual books anymore owned by individual authors. Because originally we'd attracted these people—originally I attracted myself—but people who were smart lawyer types who would sort of write a book. Well, they would sort of own those books. Well, gradually we realized, wait a minute, Nolo needs to own those books. They need to own the database. We've had some conflicts with some of our superstar authors, fitting both systems together, which we've done reasonably well. Oh, they got their royalties and their credit and all that. We made the authors subject to the Nolo system and everything had to go through a skilled editor with a backup editor and the rule just sort of became that a book is not done until we say it's done.

You own the final result if you're the author but only when we say it's final. So we just hand it back time after time after time marked up and changed. So a lot of our books have a sort of similar sound because people get very good at understanding that we do sidebars like this, we do cross-references like that, we do this like that.

Since at the start it was really Toni, myself, and then later Dennis Clifford, Tony Mancuso. People that in a sense owned the company were the content generators and respected the content. As new people would join, editors, Steve Elias, Mary Randolph, we'd say to them, "Well, you don't have to just be an editor. You can be an author. Just go off payroll anytime you want and write your own book." And people started doing that. Or if you don't want to do that, we need a book on executor's rights. Gee, Mary's the perfect person to do that but she's got two kids. She can't afford to go off payroll right now. We'll just have her write it on Nolo's time. It'll just belong to Nolo even though she's writing it. So gradually more and more of the context either became owned by Nolo or partially owned by Nolo because people would go off payroll two days a week and so they'd be getting half a royalty. So every editor became an author if they wanted to be, and sooner or later, there's nobody that's ever been an editor at Nolo for more than a year or two that doesn't have their names on the books, which really is great in terms of keeping people.

10-00:33:09

Stein:

So before you had your editors as authors, as well, where were you getting the authors from?

10-00:33:15

Warner:

At the start, they were mostly dropped out Legal Aid lawyers like us. Well, probably of the first twenty books, I wrote at least twelve of them. Then, as I say, Dennis Clifford, Tony Mancuso, there was a guy named Peter Honigsberg, David Loeb. People who tended to be from similar backgrounds as we were would see what we were doing. Toni was at law school at Davis and the people in her law school were amazed. "You're Nolo? You guys have ten books. This is awesome. Really? Can I meet Jake?" And we'd find maybe one or two authors that way. Kind of osmosis. But back to the database point. Authors were really writing the books. They were writing them as one off books. Somebody would do a book on tenant law in California. Somebody else would do a book on landlord law in California. But then we started realizing, wait a minute, it's the same database. So gradually, by the mid-eighties we started saying, "There's just one big database." So why did we create a system that nobody could compete with? Because everything was in that database and in the beginning it was sort of informal in the sense that authors did own their discrete content. But the editors became so good at helping the authors. For example, an editor might say, "If we're going to sit down and work with you on this chart of the eleven things, landlord variables or whatnot, that chart needs to belong to Nolo to form the core of four national landlord books and three national tenants books." So anything we would do in

landlord tenant, we would, in a sense, go back into our core database as opposed to somebody at Dummies or some other publisher, even now, who still thinks they can compete with us by going out and finding somebody to start all over again.

10-00:35:17

Stein:

And it sounds so easy to update all of the books.

10-00:35:20

Warner:

Yes. So basically, what we did was create a professional publishing company in a paperback format. Professional publishers, your CCHs, your McGraw Hills on the professional side, this was not a new movie. They'd been doing this kind of stuff for years, in a sense hiring people to put out their big serial data dumps. You go to any library. Of course, most of it's on disk or on the internet now. But the idea that you could get ten volumes that Prentice Hall put out on federal taxation. Those would not have individual authors' names on it. The company would own it. So we kind of morphed into that. But by creating that kind of a behind the scenes system, we created a better system. So our stuff was always more up to date, more reliable, and a lot of where that paid off was in libraries, because we could really educate libraries, as we have, that we were better. They would just totally get it. If we come out with a new edition of a book, say, every eighteen months, our competitors every five years, well, not only are we more up to date if you're looking at the copyright date, but the librarians are subsidizing it because we'll sell maybe two and a half million bucks of stuff every year to libraries and they're on standing order plans, often, and will buy everything we publish, big libraries. We don't even have to tell them what it is. We just ship it to them. We're one of the very few publishers in the country that can get away with that. Sometimes we'll give them the option of saying, "We'll take everything you publish on family law, on debt bankruptcy, on employment, or something, but you have to ask us if it's in another area," in some cases.

In a sense, we became kind of a database publisher. One of our big profit points now is working with electronic distributors to libraries. We have contracts where they resell our whole database electronically to libraries and guarantee us 500,000 bucks a year kind of thing while we continue to do the individual book distribution. So it was all about the expert system and understanding how to develop that.

I'd say the early nineties, the mid-nineties, we felt like, yes, there was more competition from the Dummies and others, kind of low end. There were always challenges. But in the big areas like business formations and wills, probate of witnesses, living trust and a lot of other areas with software, we've done a pretty good job on that. We learned how to do the software business. We converted it to sort of a database company. We'd expanded the company greatly. I fired myself as CEO around 1990 because I just decided my fun in the whole thing was the politics still, law reform, and also the editorial vision

of the company, but I was starting to spend too much time running the business. So talked Linda Hanger, a woman who had worked for us as a kid when we were all kids way back in the end of the seventies and had gone on to be the national sales manager for Osborne McGraw Hill, which is a computer publisher division of McGraw Hill. I talked her into coming back to Nolo and taking over as basically CEO. So we wrote a napkin out. In fact, Linda's coming up to visit, going to hang out next weekend. She's off running another publishing company at this point. But we had done a raft trip up in the mountains on a class five and a half river that was completely illegal, but we did it anyway with a friend who was like the guy that we never went with again because it was crazy dangerous. But a bunch of us would go every year and do really crazy rivers, right. In this case, we did the crazy and a half river. We'd flipped many rafts, but this one flipped completely over in the middle of this horrendous waterfall. Toni ended up under the boat and didn't come up for two minutes, almost drowned.

10-00:39:47

Stein: Oh, my god.

10-00:39:47

Warner: We have pictures and people say," Did you do this? Crazy." So on the way back, we were sort of drinking martinis and going like this and Linda said, "You're right, Jake. I'm ready to change my life. I had a near death experience. I'll come back and have some fun even if I get paid less." So we wrote a napkin out saying I still ran the editorial part of Nolo and the content part and Linda ran everything else. We managed to make that work for like eleven years. Everybody said we couldn't do that. I wouldn't stop meddling. It wouldn't work with two strong personalities. But it worked. That took us up to about five years ago when she got an offer she couldn't refuse to run another publishing company down in Monterey. She changed her life again.

10-00:40:29

Stein: Is that when you came back?

10-00:40:31

Warner: No, that's when I quit. If we want to flash forward a little bit? So Linda's running the company. We're doing pretty well. I guess before I get to that, the thing I really want to talk about is the internet. Because, again, it's sort of like on a ten year cycle or eight year cycle, where along comes the next thing and rapid change makes you stupid again. Remember, we had from the early eighties to the early nineties where people bought loads of software. They did stuff on their computers, whether it was a game, a pong game or whatever you call it. But there were software stores, Computer Land, Egghead, Comp USA all over America.

10-00:41:14

Stein: I remember these.

10-00:41:15

Warner:

Yes, yes. Yes, exactly. So suddenly along comes the internet, and again, it takes a couple of years to really realize how information's going to migrate, that in a sense, boxed software, is not going to be totally dead. We still sell a lot of it in places. But basically, the energy and a lot of the profit went out of it and everything started migrating online. We were, again, sort of half-smart. Smart enough to survive but it's hard to get each revolution right. The part we got right was to realize that this was a perfect place for us to put out piles and piles of free information and, in a sense, become the destination to get self-help law information, which we got on the internet almost the first year in 1993. We had a store by 1994. We started putting our legal encyclopedia with free stuff, there's like 1,500 articles at this point, online. We grasped enough of how the internet worked, the connectivity of it, to get links to other people and do what—at that point didn't have a name yet—but it's now called SEO. Search engine optimization. Google, of course, didn't even exist at that point. I don't think we started Googling things probably until late nineties. But we did understand that if you could get enough other computers pointing at you, you in a sense could be the center of a whole world of legal stuff almost overnight. Obviously, we've seen loads of companies go from nothing to billions whether it was information stuff in the earlier days or search stuff later. You know, your Googles, your Yahoos, to some extent MSN, or more recently, social media kind of sites where you can go from the college dorm room with Facebook to capturing the world almost overnight, to the point where Toni and I have old girlfriends and boyfriends that are finding us. Hope they don't look as bad as we do. Anyway, it's even gotten to our age demographic.

Anyway, so Nolo got out there quick. We put our self-help law store up. We started selling stuff immediately. We started doing direct mail fulfillment and by, somewhere halfway along the way, maybe around 2000, we converted everything to electronic delivery. So you can buy any one of our books or software packages as a download. You don't have to get the physical goods. So it's there. Your paper, your ink, it's really great. You give us your money and we don't give you anything but some expert advice.

10-00:44:14

Stein:

So you're selling information now.

10-00:44:16

Warner:

But then big part of what happened next was Linda getting a little tired on the job, me wanting to get out of Nolo to do something else in my life and Nolo sort of missing the boat a little bit. But where we really kind of—I'm a little ashamed—fell behind the track or the competition was in doing online fulfillment of tasks, at the thing that we had really pioneered in the eighties. Software. Really putting software on the internet. We were still selling enough stuff with WillMaker, Living Trust Maker, other stuff. We had actually done a deal with Intuit so we got to use their brand name on this. So it became Quicken WillMaker. This was important because with the death of small

software stores, Nolo wasn't maybe a big enough brand to stay out there in Office Depot or Staples. We cobbled together this really wackily created deal with Intuit where we got to use the Quicken name for free in exchange for them getting to use our programs as add-ons to Turbo Tax for sale. So suddenly, in the late nineties, when all the Computer Lands and the Eggheads were closing and you either could get your stuff into Staples or Office Depot or Sam's or something or not, suddenly we had the magic brand name and we could do that. So money was continuing to roll in in the sense that we could sell a couple million bucks of this program.

And then, in the early 2000s Legal Zoom and a couple of other companies came along and said, "We're going to move all of this stuff online so you can just go and pay fifty bucks and do it on the computer." In hindsight, I kind of thought it was brilliant and went down and talked to those guys about it. But Nolo was really resistant in a lot of ways and I guess maybe I was resistant in some ways, although I thought we needed to move quickly in that direction. But privacy issues were huge at that point. So I thought, "Well, people are really going to prefer to control the information. They're really going to want to have the disk." Do you really want to have all your—say, to take the will thing—all your intimate personal stuff online even though a few years before you're not going to even tell your kids what you did with your will. It turned out that people didn't give a damn.

10-00:46:56
Stein:

Well, it took a while.

10-00:46:58
Warner:

Took a while. But we were just slow off the mark on that, partially because we had a business to defend that was working pretty well and in 2001, it had completely geared up, hired a bunch of people to do the internet. We not only put the information on there, but do a lot of, at least, simple forms which a company called US Legal Forms has done really well and beaten us to death on. Basically, we hired twenty or thirty people and lo and behold, up shows this brokerage company in San Francisco, WR Hambrecht & Company, who says, "We can take you public." And this was at the time when companies that were selling dog food through the mail could go public. Pet Food Express or something like that. Oh, this is perfect I thought. Suddenly we have all these people from this brokerage outfit, Hambrecht. It had been Hambrecht and Quist. They had done like Apple in the Hambrecht and Quist format. By this point, Quist had died and it was a new company, WR Hambrecht. But they actually were the ones who did the Google deal. They pioneered bidding for the amount of the stock on the internet and Peet's coffee and other kinds of things. So it was kind of slightly hip brokerage. We got talked into the fact that, oh, our own customers could buy our stock. So we spent a couple of million bucks on ramping up the company, mostly on internet related stuff, mostly on borrowed money from a bank which was willing to just shovel

money at us because you're about to go public. We're going to do this big deal. We were writing the legal documents. All this took about six months.

And then [finger snapping] the bottom fell out of the I.P.O. market entirely, right. It was like having Florida Railroad bonds in the twenties. Nobody was going to go public. Nobody was going to buy, right, when the whole dot.com bubble burst. We were kind of left in 2001 owing a couple of million bucks and having too many employees and being, at least in the short run, sort of unsustainable. Well, instead of, in a sense, making Nolo larger, somehow raising capital, going to do Silicon Valley-type stuff, we were just broke. And it had all been no fun, even the get rich quick moments. At about this point, Toni and I just said, "We hate this shit. We hate these people." We just hate every one of these meetings. This is like the worst goddamn thing that ever happened to us. It was kind of like the equivalent of being in the North Pole and it's thirty degrees below zero and you haven't eaten in three or four days and you're completely miserable and freezing to death and you pee in your pants. It feels great for thirty seconds, but wait a minute, we never wanted to be rich anyway. We never did Nolo for that reason. Here we are just becoming one of them. So we're just going to pull back. So we cut back twenty or thirty employees. We said, "Wait a minute. What's working on the internet is selling our books and software. We're making money on that." We got a very small round of investors to come in, put in a million bucks into Nolo and so we kind of righted the financial ship. We kind of learned to be a little bit more conservative. I can remember Linda saying, "Jake, we can't just have you coming up with these new ideas and changing everything if we're going to survive."

So we spent a couple of years after that, in a sense, being a little cautious about internet development. So what we were still doing was developing books and software and putting it out there and selling it on the internet, but not really doing what several competitors, Legal Zoom being one of them, were doing. Which, in fairness, given the high cost, advertising-driven model I would never have known how to do and frankly, I never would have thought it would have worked. I've seen 500 other potential Nolo competitors come and go over the years with wacky schemes, so I guess somebody always has to be smarter than you and make it work. But they kind of went out and raised the first twenty-five million bucks and then another fifty and then decided to do nationwide advertising on Fox TV, they built real quick software solutions online, some of which were just basically cribbed out of our books. And of course like many internet startups their attitude was "look, if we can raise more and more venture capital, we don't need to make money. We just need to make this thing bigger and bigger and bigger, and eventually we'll sell it."

Well, they've gone through a bunch of crises around the fact that the market still has not been very supportive, even 'til now, of getting a whole lot of money on venture start-ups that are not making big money. But nevertheless, the last rumor I got was that they're selling \$125 million worth of stuff, not

making much money, but they have still captured a lot of the legal document preparation market. This just annoys the hell out of me because it belonged to Nolo—Ok, so I do have this not being a good guy side of my personality.

So we've done many other smart things. In the last couple of years, one of the smartest things we've done with the internet has been the lawyer directory, which you never would have thought we would have ever done because, wait a minute, wasn't it us against them.

10-00:52:46

Stein:

Because you guys hate lawyers.

10-00:52:46

Warner:

We did hate lawyers for many years. But it was interesting. In the late nineties and around 2000, over my dead body we actually did a few focus groups and asked people what they wanted Nolo to do and one of the things they wanted us to do was recommend good lawyers, honest lawyers. At the same time, as soon as they would say that, they'd say, "Wait a minute. Oh, my god. You'll just ruin the whole thing by selling out." So Mary Randolph and I came up with this system in the late nineties that we ended up sitting on for about seven years—we'd be zillionaires now if we had done it then—of not recommending lawyers but coming up with this system of profiles, which loads of people are copying now and bar associations. But we decided, well, we'll take a kind of consumer reports approach to this and let lawyers put down all this information about themselves.

So that turned into a lawyer directory. As Nolo started going into more and more complicated areas over the years, patents for example, the place at which we would say, hey, you could maybe need a little bit of expert help here, like you're building your deck and you're doing the electricity, the point at which you might call the electrician is, on some of these more complicated areas, is moving over further toward the middle. Sensibly, if you're planning an estate and you've got 50,000 bucks, it's pretty simple to do it all by yourself. If you make a mistake, it's not a big deal. If you've got twenty million bucks, maybe—

10-00:54:30

Stein:

You might need a lawyer at some point.

10-00:54:32

Warner:

At some point, yes. So we were doing more and more stuff for business, employment and other kinds of areas, intellectual property. And also about the time where I thought the legal system would never reform itself, it began to. In the mid-nineties, after twenty-five years of law reform drip, drip, drip, things began to change for the better. We were one of the drippers. But there were, by this point, smart people all over the place in states. A famous nun in Southern California, some people in Arizona who started a self-help law center in a courthouse. There were actually some federal initiatives and some

money for something called the multi-door courthouse. HALT in Washington. Divorce would be the good example of this. You went from the Kramer versus Kramer world of the 1970s to a mediative kind of world by the mid-1990s, which maybe isn't exactly the way I would have designed it, as a pure people system, but was vastly better. Loads of things starting being taken out of court and handled administratively, like step-parent adoptions or name changes, which used to have to go through a formal court procedure. As for probate avoidance, well living trusts became a pretty good work around for probate. Federal laws started being passed saying you could name beneficiaries for 401K plans and stuff like that, which automatically didn't have to go through a probate procedure. On and on and on.

So for all sorts of reasons, lawyers became much less the enemy of consumer rights. In fact, not that I hope we were influenced by that, but we started getting awards all the time from people. They started saying, "Oh, my god. This is exactly what we should be doing. Nolo's the vanguard of making the legal system more democratic." The profession from, say, the days of the seventies or eighties where you had this mentality, fix the prices, stop advertising, kill the competition, limit the number of people that came into the profession, all that kind of stuff, hey, the people who now ran the profession had grown up with Nader. The whole ethic was now different. Now if you went and talked to the average lawyer and you said, "Do you feel like it's competitive that somebody can do something themselves?" they'd say, "Why would I think that, because the world is getting infinitely more complicated and I have plenty of business." Lawyers have been able to move up market. It happened much sooner in the medical system. The difference between your childhood and my childhood was, by the time you were a kid, you actually had to go to the doctor. When I was a kid, the pediatrician actually came out and made house calls and actually put the thermometer in your mouth. In the 1940s, the medical profession knew so little, really, in terms of more comprehensive tests that a doctor could still get away wearing a three piece suit, a watch with a chain, standing there and putting the thermometer and talking to your mother. Maybe if you were really sick, they'd give you an antibiotic and hope it worked.

10-00:57:52

Stein:

Things that families take care of on their own today.

10-00:57:56

Warner:

Yes. It all has been reduced to the pharmacy long since. That gradually started happening with law in maybe the nineties, about thirty years later. As it started happening, of course, a doctor, say, who in 1940 would have thought, "Only I can do this. I'm not even going to let my nurse do this." They didn't have medical assistants or nurse practitioners at that point. By the 1980s, of course, they wouldn't touch it because it's so beneath them.

Pregnancy tests and zillions of very consequential things are routinely done, at least at the initial stages, on a self-help basis. Then the profession, the medical profession, gradually taught itself that, wait a minute, if we let the father be there in the delivery room and watch this, maybe it's just easier than having all these policies banning them to another floor and smoking Lucky Strikes. I went from my first kid smoking Lucky Strikes on a different floor and eventually being, "Oh, here's your kid," to cutting the cord all in twenty years. "Oh, my god. You mean you're not going to cut the cord?" I would prefer not to, really, but I did it.

10-00:59:16

Stein:

I'm just curious, what was the effect of self-help finally coming into the legal mainstream on Nolo?

10-00:59:23

Warner:

Yes. So that let Nolo change a lot of its attitudes or maybe I should say prejudices. In the new world, we needed to be partnering with these reforming lawyers, not spouting old rhetoric, not needlessly making them the enemies. As far as the public is concerned, they just want the information at the most affordable, simplest, best way to do it. So we can provide all the self-help tools and we've continued to do that and more so. I'm just working on a self-help business bankruptcy book right now. It's up to people to decide at what point to reach out to a lawyer—and we'll give them some suggestions at points. But obviously people with more money or less money but more education or less education and more time or less time and lots of money are going to make the decisions at different points along the line. You and I for example, can do loads of things that we might decide to contract out to somebody else or not. I might do my own garden but not my own electricity. So in that sense, I don't feel like Nolo and the legal profession have that kind of adversarial relationship.

Once in a while, when we're calling up and we're asking a lawyer to join our lawyer directory, they'll say, "What, Nolo? Why I should give money to you?" But we've got a couple of thousand lawyers that pay us to advertise on our internet site.

10-00:60:35

Stein:

Great. Well, we'll stop here.

[End of Interview]

Interview #6: August 9, 2009

Begin Audio File 11 08-09-2009.mp3

11-00:00:00

Stein: All right. It's August 9, 2009. I'm here with Jake Warner at his house for our final interview. All right.

11-00:00:13

Warner: Jake only has twenty more hours of stuff to say. All day gets scrunched into—

11-00:00:18

Stein: We're going to squeeze it into one. Two, if we have to.

11-00:00:21

Warner: Well, no. It's like we kind of feel sorry for the poor viewer here fifty years in the future going through. "Hey, I want to get to the point. Get to some point."

11-00:00:34

Stein: I'm sure they'll love it. So tell us about this book you have here.

11-00:00:39

Warner: I want to talk about this book called Twenty-Nine Reasons Not to Go to Law School because—

11-00:00:42

Stein: Will you hold it up?

11-00:00:44

Warner: Yes. Toni and I, my dear wife and co-conspirator at Nolo, were talking about this this morning because we co-authored it, at least originally. Yes, her name's still on this one. This was like an early eighties project at Nolo. We'd been doing a lot of legal humor stuff in the Nolo News and in other ways and doing lawyer jokes, which were really popular. There was a time where a kind of Leno or Letterman equivalent show could not be complete without a few lawyer jokes. I think that's died out a lot now—we're talking about this in 2009—because the legal system has really evolved, so people aren't as mad at lawyers. But it was kind of like during the second World War, everybody told jokes about their sergeant. All sorts of newspaper columns, some of which lasted for fifteen years after the war, were all about the only way you could get back at authority. Lawyer jokes were popular and legal humor stuff was popular.

In the midst of all this, we were thinking, oh, my god, the flower of American youth, then, as now, is going to law school and many of them don't have any idea of why they're going to law school. It's just something to do after college, before getting a job. Surely this will make me more qualified for something and I'll have an upper middle class life. I'll please my parents, whatever. So it's bound to be good training for something. Maybe I can even do good things with it if I'm a little bit altruistic. So it was an excuse for a lot of people not to

actually go do good things, not actually be an environmentalist or a poet or whatever, instead to just sort of go to law school and get some more school. So we kind of got mad at this with the whole Nolo thing in Berkeley. As a sidebar, I always thought that my education at Boalt, the state of California's law school, was the worst education I'd gotten anyplace. I think I talked about that earlier. It was just the least imaginative and the most boring.

One day one of us gets the idea of, "Let's do a joke book on talking people out of going to law school." And this is kind of the project. As Toni was saying, one of the great things about doing Nolo in our life was we could come up with a project like this and we didn't have to go sell it to anybody. We didn't have to take it to New York, get an agent and sell it. We could just sort of do it. There were a bunch of things, I'm sure, that we started to do that we ended up not ever finishing. But this is one where we started scribbling madly on napkins, Toni and I, funny stuff, like you might marry another lawyer, or just various stuff about the boredom, how you're going to look. One shoulder's going to be lower than the other because everybody carried briefcases in those days. Now it would be backpacks and hunched forward. Just trying to take not so much all the big ideas, but the funny ones. How you're going to talk. Just what will happen to you at a cocktail party where you'll only be in the corner with the other lawyers talking. We did this brain thing which was a rip-off of other people's ideas of what your brain's going to look like after you become a lawyer and kind of stuff.

11-00:04:03
Stein:

Let me take a look at these.

11-00:04:03
Warner:

And we did that on a t-shirt which Nolo sold many thousands of copies of. That t-shirt was hugely popular in law school for five or ten years. So we called up Mari Stein who had lived in LA and done a bunch of illustrations for us with what was kind of a New Yorker style. If you open up a couple of the pages, you'll see. She had a very kind of New Yorker kind of touch. The one on the back cover's a classic, too. So Mari started immediately getting into the idea and she had, I think, gone to law school for a year or gone out with a lot of lawyers and so she started faxing us all kinds of drawings. We started putting it together and we saw, within a couple of days, this is a go. So Mari came up for a couple of days and we worked on reasons and threw them out. They weren't funny enough. We got every friend we knew who had ever gone near a law school to suggest goofy stuff that is going to happen to you. We went back and forth on whether we should put it in our catalogue for the next season. We were thinking, we're going to have this book called Twenty-Nine Reasons Not to Go to Law School? What is this? Then, of course, we were way behind on everything. Every reason has to be really funny or it's not going to work. It's not so easy. Figuring how to do this was a whole new career. So we kind of panicked and drive down to San Luis Obispo. Mari drives up from LA. We spend about three days living in parallel motel rooms

just working all the time, sitting in the coffee shop at the Appletree Inn or something writing stuff, throwing them out, writing more. We're about three-quarters done. It's going to be, in our view, great. Goofy, great. Nobody's ever done anything quite like this before.

Then, all of a sudden, we're going to Thailand, Toni and I, because we just had planned this trip and it's going to be this hippie trail thing. We're going to go to Koh Samui. You can fly there. There's an international airport. But in those days, you had to take a train eleven hours from Bangkok, a jitney, a thing, a ferry and then some guys would meet you at the pier and you would go stay on the beach with a little thatched roof hut with four stakes in the sand just from the high tide line and it would cost a dollar a night. Right next to us were two Australian sex tourists with their Thai girlfriends who actually all seemed to be having like a totally great time, all four of them. What can I say, it's exploitation and all that. But they were all in a good mood. On the other side were two German girls who were traveling around, mid-twenties German women who were traveling around the world trying to try every psychedelic substance there was, right, kind of before settling down in Germany. Then there's all these various other hippie trail kind of people. There's a little restaurant in the center. None of this existed like, say, five years before hippies started showing up, and Americans and world travelers started traveling and showing up. These were Lonely Planet kind of travelers. The locals had gone down and started building these little huts on the beaches and then in the center they'd put a little restaurant, which was a bigger hut, open thatched roof and you could go there in the morning, you'd get your banana pancakes, you'd get your milkshakes, you'd get your beer, they'd have the ganja, marijuana, on the menu and it would cost less for Thai sticks, as they're called, then it costs for the paper to wrap them. You never paid cash. Or you did pay eventually. But they'd give you a little book and you wrote down whatever it was you ordered or took or bought and then a couple of times a week they'd come around.

11-00:07:47

Stein:

It was all on the honor system?

11-00:07:49

Warner:

Yes. It was like an old fashioned resort in the US in the 1920s. So there we are and we have to finish the book. So it was typical. Were we serious about stuff? Yes, we needed to get this book out, we needed to sell it. It ended up selling sixty or 70,000 copies. It was like reviewed in every college newspaper in the country. It did extremely well, went through about five editions. But at the same time, we got to do it on a beach. Toni being Toni, never would have done it. She just wanted to get up and take her clothes off and go swimming or ride a bike around the island. It was always me that would say, "No, wait a minute. We have eight reasons to get done before we go home because it's got to be at the printer the next day. We can't stop and goof off and go knock coconuts out of trees or something until we do two reasons." Twenty-Nine

Reasons, it came out, did really well. Eventually, Toni and I got sick of it. We got Barbara Kate Repa, who was a very funny editor at Nolo and she took it over and did two or three new editions, changing the reasons a little. We ended up with twenty-nine reasons plus four or something. After about ten years, it was still kind of selling a little, enough, but we all just got sick of it. It was a fun project and we decided, "Hey, we're all getting to be fifty now. What do we know about law school?"

11-00:09:10

Stein: Right, right.

11-00:09:10

Warner: It's remarkable. I still go and talk to law students once in a while. It's remarkable how much unchanged law school is—my father would have recognized the classes. That, to me, is another indication of any failed system that stays the same. It's like astrology. Why is astrology bullshit in the larger sense? Because it doesn't change and evolve. It's the same. The cosmos has changed and evolved. Our understanding of it has changed and evolved. Everything about every system that's smart changes and evolves but people are still saying, "Oh, well, if Pluto's in the shadow of something or other."

11-00:09:47

Stein: Are there any substantive differences that you've noticed in terms of the curriculum or is it pretty much identical to when you attended school?

11-00:09:52

Warner: The curriculum is pretty much terrible and pretty much the same. To me, it's a failed method of teaching to take this casebook method and have people get little skinny points of law by reading endless cases. You sort of learn to think like a lawyer but thinking like a lawyer is not necessarily a good way to think. Yes, there's a lot more clinicals now. There's a lot more stuff getting people out of the law school and into the community and getting valuable real world experience in good law schools. So that's a positive. But the basic core curriculum and the way it's taught, I think, is backwards. The part that I really hate—I think I talked about this before—is there's still no effort at all to deal with the fundamental philosophical things that underlie law. I think maybe the same thing used to be true in medical school. It was all technical, how to fix people. They didn't used to teach anything about fundamental ways of being healthy. I think that's changed a lot, probably more in medical schools than it has in law school. But there's no course in law school about what law is – why we have it in the first place. If you go to Harvard Law School and you say, "I want to take courses in the philosophy of law. I want to understand what Plato thought about this truth and justice, and how do we, as human beings, process law." In some ways, law comes back to religion. Is there a god? Is there some kind of universal standard here? Do the Ten Commandments mean something? None of that is dealt with in law school at all. So it becomes just who can win. Technical. I think a lot of people have trouble with that. I had

trouble with that. I expected more of law school in that sense. But I think also just the technical way it's taught is not the way I would do it.

11-00:11:51

Stein: I have sort of a general question. So sort of now that Nolo has been, and self-help law has really been embraced by the legal establishment—

11-00:12:00

Warner: Yes, yes. We won.

11-00:12:00

Stein: —and the books are used in law school. You did win. It seems like most of your mission has been democratizing law more so than trying to actually like dismantle the system itself.

11-00:12:13

Warner: Yes. The diaspora of what we were doing about legal democracy somewhere between the late nineties and the early 2000s sort of won. So after that, and Nolo now is really, in some ways, just another company that's trying to compete, make money, feed people. What's the larger ethic of it? Why does Nolo still really need to exist? Well, in some ways, the answer is it doesn't in the traditional sense. The thing that really motivated us to start it was to change the world. And the legal world changed a teeny bit. The world changed a lot and we can give ourselves credit for being a teeny bit of that change. So we can kind of write on the back of the tombstones, "These guys kind of did a good thing and pointed the American legal system in the right direction." We were talking in the last hour a little bit about getting to 2001 and having people show up and say, "Oh, your company's worth a hundred million bucks. Your sales were only ten million last year, but the internet, blah, blah, blah." We were making a sort of half-assed effort to take the company public and raise all this money. Most of the other people who tried to do that failed utterly. There were a lot of people that came in around 2000 with legal start-ups. "Oh, Nolo's just this old line book publisher. We're just going to do the internet." They raised five or ten million bucks. They just completely went under.

So in the early 2000s, we were back somewhat to where we'd always been in the sense that we really had the competitive edge. We dominated in libraries and to some extent, bookstores. Yes, there were people like Dummies ripping off our top titles. From that point on, if there's been intellectual interest in it, it's been really using the internet to continue the process of making law available to people. Most of the people that have come in and competed with us, some of them very successfully, have been focused on aspect of law, often trying to make a lot of money and doing simple tasks. Okay, you can go on Legal Zoom's site or Rocket Lawyer's site or somebody's site and you can form a corporation, you can do a will, you can do whatever. This is great. Thirty or forty years ago, the right to do that, the ability to do that, the fact that an ordinary person could do it didn't exist. So the basic idea of

disintermediation has happened in the law. Twenty years ago, my generation, you wanted to go someplace, you went to a travel agent. Now, we've all learned just to go online and do it. We've disintermediated the bank teller. So if you viewed Nolo in one way, just disintermediated lawyers from low-end routine legal tasks. Paper shuffling, other kinds of stuff. Okay, explain it to people clearly. Explain it to them again in case they didn't get it the first time. Then give them an example and give them the tools how to do it. Other people who have come in on the internet and have done that very successfully, and there's no reason for Nolo, in a sense, to even be doing that anymore on a philosophical level. On a practical level, people at Nolo want to go to work, they want to get paid, they want to have a job. People who have worked there thirty years, have stock in the company. They care very much about its success.

So what's Nolo still doing that's interesting? Well, I think what it's doing that's interesting is still assuming that the underlying legal information about how the system works is important. So instead of going in and just saying, "Click here, do your will," like many of our competitors, Nolo is constantly coming up with more information in our online legal encyclopedia and other kinds of ways. How do you understand the law of brain injuries for example? Or you're a woman and you've had a bad experience with childbirth or something. You can you go to Nolo.com and find out information in a sort of Wikipedia kind of sense that has been written, checked, verified, kept up to date? We're just starting a big deal with Cornell Law School, where most of our legal encyclopedia will be a wiki for people in their legal system, the lawyers and law professors, so they can sort of add to it but we can edit it before we put it out there. Our content is so good we license to many others. Our information is basically used by Find Law, many legal insurance plans, GE, State Farm, others that have legal plans. They just buy the content from us because it's too expensive to create it themselves.

So at that sort of content level, at internet search levels, I find it pretty fascinating. We have a new website that's going up this week that we've been working on for two years that's interesting to me. Let's say you're in Northampton, Massachusetts. If you want an article about motorcycle injuries, which you couldn't really get anyplace else, Nolo's got five articles about various kinds of motorcycle injuries. The closest lawyer to you in our legal directory that handles motorcycle injuries will pop up right there. The computer will know that and they'll actually serve up several people who are near Northampton. Well, is this Nolo's historical mission? Well, not necessarily. The general idea, the disintermediation has happened. Now lawyers aren't the enemies anymore. So if you're in a motorcycle injury, we have books and we have material that shows you how to go to the insurance company, represent yourself. In many cases I'd say—loads of cases—the amount of money you're going to pay the lawyer, the forty percent of the settlement, is going to be more than a smart person, if they really understand how to do it, can get for themselves. In other words, the lawyer might get you

a little more but they won't get you forty percent more. But you need to be a fairly sophisticated somewhat feisty person who really understands a book that explains not only the law but as much about how these adjustors work? What's under the hood of the insurance company when they're talking to you? What's the limit that the adjuster you are talking to can go to without getting the permission of the boss? So it's the same thing as like dealing with an IRS tax audit. You not only need to understand the law, you need to understand how the auditors work, what their quotas are, which day of the week is better to be in there, which day of the month. It's kind of like buying a car or something. You want to be there the day, the last day of the quota period, where if the person sells one more car they get to go to Hawaii.

I think Nolo's still doing some interesting stuff in search, providing more information about expert legal systems. For example, if you were starting a company tomorrow or an enterprise tomorrow you would find that there's a lot of crap on the internet. But you'd also find that you didn't need to go back and fight all the battles that have been fought in the last thirty or forty years. They've been fought and won. The tools are there. But you still need higher quality information to solve your problem. That's where Nolo comes in. We need to be the best and we need to get it to people quick. They're going to find Nolo really fast. When they get there, they're going to have to be really satisfied with the fact that we've got the best information. If you go to Web MD and you think, "Oh, this is terrific," maybe you'll come back, right. Then how do you monetize that? It's a whole new world. On some days, I'm really interested in it and some days I'm totally bored by it. One of the reasons I stopped doing Nolo for a couple of years—one of the reasons was I got a little bored by it.

11-00:21:24

Stein:

Just before we jump into that, because that is a good transition. I'm just curious about whether there's a parallel movement out there or whether you see Nolo being involved at all in the movement to actually dismantle the larger changes in the legal system, and the sort of exclusionary nature of the law?

11-00:21:46

Warner:

Yes. I think that at the most fundamental level, that's what we've been writing about this for thirty years, that the thing that the country's never quite faced up is the lack of a democratic legal system. Certainly there are parallels with the health system about people's right to access to health care, but even more so in the legal system. Law is one-third of government, unlike the medical system, which is outside. When you're talking about a constitution, a separation of powers, courts were built in. That's one-third of our democratic system. When we're talking about dealing with the IRS, dealing with any kind of fundamental federal agency, whether it would be immigration or the patent office, it's our government. This is us. Why have we allowed professionals to, in a sense, get in there and exclude us? So the fundamental question that we've

been grappling with for years, and it's still out there, you're right, is who owns the law. Thirty or forty years ago, when I went to law school, lawyers thought they had owned it absolutely totally, and they seemed to even realize that they'd stolen it. In the nineteenth century, everybody owned it. People went west with a copy of Every Man His Own Lawyer in their saddle bags. The law in one saddle bag and their six guns to tame the west. What happened? And we talked about some of the reasons with law schools, bar exams, excluding competition. Then, from say the twenties to the fifties or sixties, actually in a lot of federal agencies and a lot of courts and a lot of other things, it was sort of like they jiggered the rules so, in a sense, nobody else could do it except lawyers. Then, if you went before a judge in 1975 representing yourself, they would just look at you and say, "You're nuts. Go get a lawyer. You can't do this." What do you mean I can't do this? Who said that only lawyers could do this, right?

11-00:23:53

Stein:

They did.

11-00:23:53

Warner:

They did. S.I. Hayakawa was head of San Francisco State in the riot days and he cracked down. He was the Ronald Reagan of San Francisco State. So he parlayed that into being elected the first Japanese American US Senator from California during the seventies or eighties. He was a funny guy with a bowtie, a right-wing Asian. He was always funny. As he got older, this is circa 1980, he would be sleeping on the US Senate floor. In one famous day, they were debating the Panama Canal and it was just when we were going to finally give it back to Panama. People were finally thinking, oh, it's in Panama. Maybe Panamanians have a few rights here, too, right? So there was this big debate between the liberals and conservatives, at least on foreign policy, on whether or not we were going to really include the Panamanians in canal ownership or just go down and beat them up another time. Hayakawa, of course, was on the conservative side. In the midst of the debate, he just heard something. He was sleeping, snoring. But he heard something he didn't like, kind of subliminally, I guess and sputtered to his feet, stood up, and this is his famous moment in the US Senate, and said, "The Panama Canal. We stole it fair and square. It's ours."

And I thought, lawyers stole the law, and in their view, fair and square and they were not going to give it back. There's a vast difference between educational levels of the average person now and say fifty years ago in the US. Everybody has gone to at least some community college. So yes, there have been changes, some of them cosmetic, some of them real at the lower end. You can go to many courthouses and find a self-help law center. You can find in more places people that will help you on family law things. But at the fundamental level, lawyers still kind of feel like they own the law and they can sort of write the rules for themselves.

Obviously, some attitudes in America toward professionalization are quite good. We really didn't want to have brain surgeons operating out of barber shops. So some improved standards in the legal profession was legit. But by and large, bar exams are bullshit. Bar associations protect themselves. Lawyer discipline systems are lousy. Any of the organizations, HALT and others in Washington who issue report cards on fairness, on lawyers disciplining themselves, would give most states Ds. It's done in secret. People who have done five heinous things are still suspended for a year, but right back practicing again. But yes, that larger question.

It's a question that society as a whole has to come to grips with. I guess what I was trying to say is as long as we have an attitude as a society that all law is extremely difficult, that we make it sort of a parallel to kind of brain surgery, that we're going to say, "Oh, we need this elite group of high priests or whatever, skilled people, highly trained people to do it." In my view, most of law is just breaking down stuff into little pieces. Whether you're filing a patent for an intermittent windshield wiper, a famous case of the guy who did this for twenty years and finally won all by himself after firing all his lawyers and ended up with \$200 billion or something. All the lawyers said he couldn't do it. Or if you're doing a divorce or you're doing a landlord tenant case, all it is is information, forms, procedures, and you can break it all down into little enough pieces, make it available to anybody. I don't know if we'll ever get to the ethic of, as a society, that we want to do it or we're just going to be happy to say we can do some of it at the more routine ends and we don't really want to go to that much trouble anyway. But yes, there's a fundamental democratic issue behind all of that that has not yet been resolved, although it's better than it was. So that's a pretty long answer. Sorry.

11-00:28:48

Stein:

No, that's a great answer. All right, let's hop to retirement. What do you say?

11-00:28:52

Warner:

Okay, I want to talk about that. Yes. I'm just going to change gears totally here. I'm in Oxford, England, doing kind of a house trade thing in the maybe 1993, 1994. I'm fifty-three years old, being in Berkeley and going jogging and doing this and that. I can, on a good day, pass for forty or something. But I'm, inside myself, confronting, "Oh, okay, I'm pretty middle aged now." But I'm not really so conscious of that. It's more like we're doing this thing, we're going to be in Oxford for four months. We got this house and these people that went off—kind of we knew through somebody—to Greece. Our kid is in fourth grade. We've managed to work out this deal, or they've helped us, that she can actually go to the English school from the first day. So there's little Joe going off on her bicycle to the school. Part of this deal with myself is I don't really have time to take four months off from what I'm doing - writing, editing, doing my part of Nolo - but I'm portable, so I'll just go there and I'll work in the mornings. Toni's happy enough not to work at all if she can get away with it. I'm editing this book on business tax stuff that a guy named Fred

Daily wrote that went on to sell a few hundred thousand copies. It was a really horrible manuscript and I was sitting there pulling out my hair every morning saying, “Why am I rewriting every word of this goddamn book?” It was actually commercially worth it. I probably glossed over the part where sometimes you have to work hard and turn out work and do all this boring stuff to go out and sell to people and make a living.

Anyway, I’m getting my mail forwarded once a week or twice a week in FedEx packages. I made a mistake in the beginning of the summer and forgot to tell people not to forward magazines. By the time I’m going to tell them not to do this, I’m getting all the magazines that Nolo subscribes to, including all the so-called personal finance magazines. Money magazines, Smart Money, Kiplinger’s, three or four others. At the end of the summer, we’ve gone off and done many bike trips and hiked along Hadrian’s Wall. But we have a couple of more weeks there. I finished up editing this book, and I’m sitting in this little funny worker’s row house that we had in South Oxford off the Abingdon Road and up shows my FedEx package with all these magazines on the same day. I go to toss them out. They fell on the floor. I’m just sort of throwing stuff out. Do I need to pay attention to this? Oh, Christ, here’s all these magazines. They all kind of fan out on the floor and I look down and they all have the same title basically. You need a million dollars to retire well. Don’t die poor in the gutter. Is a million dollars enough? And retire rich and early. This is not the first time I’ve noticed this, but it really just hits me. “Wrong, wrong, wrong,” and I’m just getting mad. It’s kind of like starting Nolo, where I’m just so mad at what lawyers do and the legal system. I think huge numbers of businesses and trends are started by people who get mad.

I was in Berkeley when Mr. Peet’s started Peet’s, living with my girlfriend on Walnut Street. I’m sorry for the digression, but somebody started this little coffee store in 1967. We went down there to this store all for coffee. We couldn’t believe it. We thought this was going to fail the first day. It was unbelievable. You bought coffee in a can at the supermarket. But of course this was the beginning of an amazing business trend eventually converting everybody. Who was Mr. Peet? He was this irascible kind of odd Dutch guy who ended up living in Berkeley and couldn’t get a good cup of coffee. In Europe you could. Americans had no clue. He got so mad. He’s gone to fifty-seven places but the coffee is always lousy. So finally he got some beans, brewed it himself, started this little business just to get a decent cup of coffee.

I had that kind of feeling about this retirement thing. Wrong, wrong, wrong. I was involved in some environmental stuff in the US. I was on the board of the Save San Francisco Bay Association. Environmentalism had always been like my religion or a hobby. I haven’t really talked about that too much. But on the board, quintessentially, I just knew these energizer bunny wonderful people. Then, in other places in my life, maybe because I lived with my grandparents when I was little, I’d never had trouble with cross-generational things. I’d always had older friends. Many of those people that I was friends with were

kind of amazing. My friend Babette who lived in El Cerrito is an Airedale lover. She would walk five miles a day with the Airedale. She lived on her social security. She was actually fairly affluent, but gave all the rest of the money to the poor. Social security was plenty. Nobody needs anything more than that, Babette thought. Buying new clothes, it was just all ridiculous. She was this funny, odd, slightly bag lady interesting person who went around helping and was healthy and active. I was twenty years younger. She was a person that took care of other people all of her life kind of thing.

I thought, reading all these articles, I knew exactly what they were going to say. They were all, as it turns out, written by thirty-two years old, and most of the articles in those magazines, to this day, are written after they do the headlines. For example, if you go pick up this month's Money magazine, you'll see there's a headline that says the Ten Best Places in America to live. They have done that article twice a year for forty years, along with all the other articles, because they sell. How do they know they're going to do the article? Or how do they know the headlines? They make up a bunch of headlines in those magazines and they take them to shopping centers in New Jersey. Believe it or not, there are jokes about people from Money, Smart Money and Kiplinger are running into each other holding up things in shopping centers saying, "Which one would you buy?" to people. "Come on over here. Can I just ask you a question for a minute? Which one?" When people vote, then they go write the story.

11-00:35:44
Stein:

As in, which article would you buy? Which headline appeals to you?

11-00:35:46
Warner:

Yes, exactly. Which headline would you buy? The way it ends up, if you just notice any of those magazines on a newsstand, you'll see the same headlines. The headline about you need to retire rich and early is like a huge seller because it feeds into, what is to me, the opposite of the best way to live your life. Work like crazy when you're young and save up all this money and then suddenly move to Durango or someplace and be infinitely happy. We've talked about that.

Anyway, I got mad and I started just going over to the little neighborhood park and out by the Isis River, which was what they called the Thames in Oxford and scribbling down what I thought were the characteristics of successful people of retirement age, not necessarily retired. What did I think were the things that those people had sort of in common?

11-00:36:41
Stein:

And at this point your ideas were based on what?

11-00:36:44
Warner:

Nothing, nothing. Just like almost everything I've done in my life. I just started out knowing that the conventional advice was wrong. I can figure this

out better, I thought. Remember, I don't need to go to a New York publisher and get approval from anybody. The only freedom of the press is to own one, right. That's what we were saying. So I scribbled down about twenty pages of stuff and I said, "Jake, you're in danger of going off and you're ranting without knowing enough." So I'm kind of editing myself. So I said, "Before I commit to kind of doing this—" Oh, sidebar. It started to occur to me that, being at the age I was, that this was sort of an interesting thing to do and that many people in my family, my father, other people, I thought had handled retirement years very badly. They had been overly obsessed about money, sat in the corner reading the Wall Street Journal, not particularly healthy. In my dad's case, his friends dropped away, moved to Florida or died. We lived in the Northeast. He really did not have the ability to make new friends. By the time he got around to thinking maybe they should be involved in a nonprofit or something it was kind of too late. Who wants a seventy-six year old fussy old guy?

So one big question was what was different between a lot of people in my family or other people I'd known who I thought had disappointing retirements. The last third of their life was somewhat disappointing. It occurred to me that this is all pretty interesting for my life. Even though I'm still coaching soccer or doing this, doing that, I've got a kid in fourth grade, I'm still getting old and it's time to look at this. So I came back and just went around and called up three or four of the older people that were role models and just said, "Hey, can I come over?" I want you to pretend that you've been asked to come to a dinner party by a bunch of people who are like forty-five years old or fifty years old. And whether they're in your family or just friends, they're asking you the questions that nobody's asked you. What makes you successful? Why is it, at least from looking at the outside, you're living this great life with a lot of people in it, with a lot of interests, with a lot of stuff? Tell me the things that are important to that and then we'll reason backwards to how to help others to get there. At the same time, I started doing a literature search. I got Stan Jacobsen, a guy that worked at Nolo who was on his third retirement, is eighty-five, still around, still there. But Stan was about seventy at that point. He was married to an emeritus professor at Cal who was this very famous and luminous person who's still active at ninety, I think. So Stan had total access to the kind of Cal Lexis-Nexis database kind of stuff, so he started doing literature searches for me on everything, like happiness or health in old age or exercise. He'd come with headlines of fifty articles. I'd say, "Well, let's get these five." He got totally into it.

After about a month, I thought, "This is a go." Most of the people I'm talking to are saying the same thing and they're really saying the same thing that I had scribbled down. It was pretty close. Having financial security was maybe one of the big five, let's put it that way, but not the most important one. I thought, "Well, maybe I have something to say here, because most of the articles and most of the stuff, what people are being fed, is that money is the thing, the only thing, or the most important thing, and none of the articles are written or

ever talk about energizer bunny retirees who are riding a bicycle instead of driving a Lexus.” I had a friend who had done a book for Nolo who had come out of a magazine background. She had been one of the starters of one of the first Mac magazines, Cheryl Woodard. She understood advertising in magazines really well. She took apart for me where those magazines were getting all their money. It was really interesting. It’s in *Get a Life*. There’s a new version of this book that’s still out called *Retire Happy* that we do with USA Today. You could see that the mutual funds, insurance companies, annuity companies provided seventy percent of the ads in the personal finance magazines. So the magazines were all saying, in a sense, give trillions of dollars to the retirement industry so they can make billions and we can make millions in ad revenues. Any individual article could have been fine. It was like basically buying a car mag. But in my opinion, people weren’t totally getting that. When you bought *Car and Driver*, or something, or *Motor Trend*, you’re going to get fifteen articles about the same cars that are being advertised. Hey, here’s a new one, a fast one, a red one. It goes great. But this was sort of supposed to be objective journalism. But even most of the articles that were in newspapers said the same thing. So much of the stuff was being, one way or another, financed by the retirement finance industry.

A lot of people, even writing retirement tips in your local newspaper, would be basically teaching the free class so that you would come to them and give two percent of your money for them to pick the mutual funds for you. So anyway, to get to the end of this story, I just kind of got involved with people and say the most important thing is what you will do that day. Is the phone ringing? Are you interested and active? What are the things that work? What are the things that work for people to be doing? Well, learning new things. But because of brain chemistry and a lot of things, many people, at age twenty-two when you’re a senior in college are thinking, “God, there are so many courses I didn’t take. There are so many things I wished I’d learned. I never got to take astronomy or psychology or geology or whatever the case might be.” I needed two more years. But the same people, by the time that they’re sixty or sixty-five, say your parents or grandparents and they retire, how many of them go back to school and learn those things? Well, something happens during life, a narrowing that probably has something to do with brain chemistry. There’s a really interesting work that a woman named Diamond did at Cal on the growth of dendrites and axons in mice. Anyway, learning new things is just one thing. Helping is another, and so on. So you start going through the list of success conduct and one is to actually stay in your career, for some people continuing to work. Supreme Court justices never die because they’re active. They’re active and interested and many of them last until ninety, as compared to a cohort. University professors that get emeritus status and are famous enough tend to go on forever. That’s not an observation. You can actually look at the statistics on that. But then you get into the questions of, well, are they going on forever because they had bigger brains to start with?

Health issues, obviously are important. People were spending all this money. Your typical picture of some guy who comes home on Friday night or a woman and has two martinis and a bag of chips instead of going to the yoga class. Look at the average American at age sixty-five. You can often find people who are having trouble walking across the room or standing up. So do you want to be like that? Have you ever read an article in the retirement press about fundamental stuff like continuing to ride a bike or something?

So anyway, I kind of went through that and did it. Surprisingly, the book came out, sold a lot, and was popular. I started then getting invited to speak places by people who had read it and felt like it changed their life, so you have to come to my temple, you have to come to my church, you have to come to my thing. So for a couple of years in the nineties, I decided this would be my community service thing. I would just go do this. I wouldn't charge. After a couple of years of that, I got bored of not having a life myself, going and talking to other people about it. So then I started charging people and I did a lot of stuff for Kaiser for retiring doctors and I'd get into these networks. Then I'd start thinking, "Gee, it's Saturday morning and I'm charging people a thousand bucks to come talk to them, but I don't need the thousand bucks. What am I doing?" I'd rather be working in my garden—so it was a typical Jake thing deciding that I had thought and talked about this enough.

Also, since the book succeeded, every couple of years the information was changing. One of the things that I was really proud of was in a lot of the stuff about friendship, having a strong friendship network, the ability to make new friends, which most people in middle age don't have. They still hold on to their old friends, but they don't really have the ability to make a lot of new friends and they've forgotten how. It's especially important to make younger friends, because even if you have a lot of friends and you make new friends, if they're all eighty when you're eighty, they're going to all be dying together, and so you're going to be miserable all the time. So people need that.

All of a sudden, all this literature and research started coming out that quantified a lot of the things that I had just made up and I'd gotten from these older people. Happiness studies became a big, world wide thing. Well, none of this existed when I wrote the book, but five years later or seven years later, the world was full of stuff about what makes people happy. Some people in Mumbai who have a lot of friends and live on two dollars a day are happier than people that live in a suburb of Boston.

Imagine that, right. So it was very interesting and fun for a while to keep up and include that in *Get A Life*. Then after a bunch of years, I just got bored again. I'm tired of doing this book over four or five times. So somebody else at Nolo took it over. I'd probably written twenty or more books and I usually do the first edition through about the third. How to buy a house in California or something. I'm really interested in the expert system but then about the

third edition, the great thing about having a company is if the book is still making money, somebody else can keep updating the book.

11-00:47:28

Stein: Yes.

11-00:47:30

Warner: So anyway, that was an interesting thing. I tried to a little bit in the beginning, maniacally almost do all the right things. Then I realized, of course, that I had never been a person who ever did very well in life doing all the right things from the beginning. So you have to leaven your good behaviors with enough bad behavior that you're still having fun. No rules work for everybody. I think one of the things that works really great for older people is to be involved in nonprofit activities, especially younger people raising their kids that really don't have time to be on the board of whatever. This is a role that people who have been doing this for a long time and care about it, somebody has to be sitting there watching the staff at the little women's health center just because that's the way the world works sort of. The 501(C)(3) has to answer to somebody on the board of directors.

So I plunged into that, did a lot of that, and then found out this just doesn't work for me. I'm too impatient. I'm just not a good person to be on the board of anything because I'll want to run it in six months and in two years I want to be on to the next thing.

11-00:48:52

Stein: You'll be over it.

11-00:48:53

Warner: Not only over it, but I'm also just frustrated because the nature of a lot of organizations is the community. The people that are in the organization, they're happy with a small success. So you don't necessarily want the impatient guy with all the ideas. I have several good friends who have gone through the same kind of epiphanies where I'm good at a lot of things and I can contribute in a lot of ways, but maybe writing a book and going out and talking about it and doing a leadership thing for you is better than having me sit there all the time and drive you nuts.

11-00:49:38

Stein: So tell me about your own retirement or at least your venture into retirement.

11-00:49:43

Warner: I think we talked before that in the early 2000s, Nolo doesn't go public, doesn't become a hundred million dollar company. Linda Hanger, who's running it, is really saying to me, "Jake, we're just not going to go down this road again." We had to fire all these people. We had to cut back. We had to lay off a lot of people we cared about. I'm not going to do that, so you're just going to have to curb your enthusiasm a little bit on the internet. That was fine for a year or two. Linda, who is coming up to spend the weekend with us next

weekend, is a dear friend. In about 2004, she got offered a great job. She had been on the board of an educational publisher down in Monterey started by some frustrated teachers who thought there were better ways, like home schooling and other kinds of stuff, to do various kinds of workbooks and teaching materials for parents or for supplementary materials for schools. They had started this little venture, which, like Nolo, had done extremely well, called Evan Moor. Linda had been on their board for a bunch of years. Suddenly, those people kind of wanted to retire and they said, “Hey, come down here. Change your life. Move. We’ll make you head of the whole thing.” She just kind of came to me and said, “Eleven years at Nolo, it’s been great. It’s been the big part of my life. But I think, as with college presidents, you can be part of the solution for many years and then eventually you can start becoming part of the problem. I think I need to go do a new thing.” She’s a little younger than I am. She was like in her early fifties at that point. “I have one more thing in me. So you just have to forgive me, Jake, but I’m going to go off and I’m going to move. I’m going to buy a new house. I’m going to change my life and I’m going to do this whole other thing.”

That’s where I probably did a bad thing in terms of my larger responsibilities in the world. I had been, in a sense, wanting to do something else with my life. Working on these retirement materials, I was constantly seeing the necessity to evolve, learn new things. I was the person who did want to go to Cal and take the Shakespeare course. I’d been unable to do it because of the responsibilities of all these people at Nolo. Not only did I still care about the mission of Nolo and self-help law, but I was also thinking about what’s going to become of everybody who’s tied their life to Toni and my life? Founders get into this. It’s called founder’s disease. You can’t let go. But suddenly Linda was going to just walk out of here and she could do what I had wanted to do. So I said, “Okay. You’re my role model. I’m quitting, too. We’re both quitting. We’re quitting together. I’m not being here one more day than you.” We had put our board in a very odd position because Toni and I owned the majority of the stock, and were faced with both Linda and Jake walking out of the door. What are we going to do? So they wouldn’t have done this, but Linda and I decided to look to the CFO, chief financial officer, who was the most intelligent, business savvy person at Nolo. If we walked out, he might also walk out unless we made him head of the company. He was kind of an ambitious forty year old guy. David Rothenberg. So we said, “Okay, we’re going to recommend David. The board had a lot of doubts. Do you want somebody who basically is coming at this from a bean counter point of view in charge of the company? Nolo’s always been run by the visionary types. Do we want to switch to the whole other side? Do we want General Motors to be run by the accountants now? Anyway, so there’s two stories going on. The personal story was exciting – put Nolo down and figure out what are you going to do? For the year or so before I put it down, or a couple of years, I’d really gotten into the children’s storytelling thing—Tall Tales Audio—in a more serious way. It was always something I’d loved to do with my kids. With my older kids—and remember, they were only living with me a couple

months a year—I was always writing and Toni was illustrating stories and sending them to them every week. Serials. It was one way to stay in touch. I'm not even sure they always read them. But they always had all these characters who they grew up with. Clem, the detective dog and other people. When they were with me, of course, storytelling was part of every evening. My younger kid, my god, she was still like age fourteen and would say, "Don't tell my friends," but she wouldn't go to sleep without a story. Rainbow of the Sioux was one of her stories, right, which is one of the Tall Tales audio stories.

A couple of years before, around 2001 or so, before I stepped out of Nolo, Rich Stim, one of our legal editors, had decided that we needed to be doing more audio stuff generally. I had done audio tapes over the years and Nolo had, in some cases made audio books that you can listen to in your car about making your will and understanding your estate planning. So we'd done a certain amount of that. It had never been hugely successful. But I had experienced going to studios, working with engineers, and writing scripts. Of course, I'd done piles of media up 'til about eighty-five or so when Toni and I just quit doing public appearances because we decided we didn't want to be public people. Another story there, but I'll save you that one.

So Rich says to me, "Okay, Get A Life is perfect. I want to do it as an audio book and you just need to read it." He was a sound guy. Just happened to be a lawyer at Nolo, had a little sound studio in his house. I said, "I don't want to read it, I said. That's going to take me forever. It's just totally boring. I'm sick of it. All I'm into is doing these children's stories." Oh, by the way, at Thanksgiving with Toni's family, one of her cousins showed up with these seven and nine year old girls who were bored silly and I said in the middle of it, "Do you want to go in the other room and I'll tell you a story?" And they said, "Yeah, yeah, yeah." So I just made up stories on the spot for them and had gotten, about a month later, a very cute little card. All of their little illustrations full of stuff about the story and their ability to retell it and then a little note from their mom. They tried to tell each other the story all the time but they're sort of forgetting it. Is there any possible way you could write it out for them or something because they're just obsessed with this? So this is like, again, six or seven years ago. So I said, "Oh, no. What I'm going to do is figure out just a way to get it onto a CD or get it onto a tape or something and tell it and then they'll kind of have it." So I'm saying to Rich, "No, I don't want to do that. I want to do these kid stories." And so he's saying, "Okay, great. Let's do it." So we kind of go over to his house and do the stories. They're pretty good. He says, "Let's redo them. I'll drop in music and we'll drop in this little intro." So we just were off again on a project. Somehow, in that, I said, "This is kind of what I want to do now. I want to do this for a while." So when I stepped out of Nolo, Rich became sort of a partner along with Marcia Stewart and Ilona Bray, two of the people at Nolo, and Toni is always happy to come along. "Hey, I can write children's stories. I'm a good illustrator." So the five of us sort of set off and did this little project. We

rented a tiny office and we thought, “Well, we’re going to manufacture these so that we can sell them.” We know how to do media. But the real secret here is going to be MP3 player stuff with parents who don’t have time to tell stories themselves and they want kind of old-fashioned told stories of like adventures, pirates and ghosts and cowboys. But the kids are always going to be at the center of the story. There’s going to be magic rabbits. The stuff that I knew not only delighted me when I was a kid, but delighted people that I told the stories to.

The MP3 part of it was just maybe a little bit ahead of our time. Audible.com was barely out there, along with iTunes. We knew a bunch of people in the children’s book business and at distributors, so we knew that if we did Tall Tales audio, did the CDs in boxes, we could actually get them distributed around the country. So we started back down the trail that we were familiar with with Nolo. Okay, we need to produce a catalogue, we need to do this, we need to spend money on yada, yada, and yada. In the meantime, I was writing. The first year of it was really delightful for me because I would just get up in the morning and I would write more stories.

11-00:59:18

Stein:

Sounds great.

11-00:59:19

Warner:

And then somebody would say, “Well, what about such and such?” One of the stories that we were talking about off the mic yesterday was a story of a girl who falls off the back of a covered wagon. Actually, she is on a covered wagon going across the country when everybody gets cholera on the wagon train and dies except her. So you have this little sort of sad beginning, which is okay with children’s stories as long as you put it at the beginning and you don’t make it too graphic or kill anybody they really love. You just get rid of the adults. Now she’s all by herself on the plains alone in this impossible situation when along comes the Sioux Indians who basically adopt her. Now she’s off. She’s got a whole new life. Of course, the chief’s daughter turns into her best friend, so now they can kind of do the Sioux Olympics and the Sioux Buffalo Hunt and the Sioux this and the Sioux that and she’s like operating as almost like a quasi little adult, as a little eleven, twelve year old out there. This can last an hour and be in three twenty minute segments and be exciting and poignant as I can make it. So that was Tall Tales.

11-00:60:35

Stein:

All right. Let’s pause right here for a sec.

[End Audio File 11]

[Begin Audio File 12]

Begin Audio File 9 08-09-2009.wav

12-00:00:06

Stein: We are back. August 9, 2009, with Jake Warner.

12-00:00:09

Warner: Okay. So we're talking about Tall Tales and doing stories. So we end up doing about a dozen stories. Each one is about an hour long and there are three segments. Surprisingly, flatteringly, they're a critical success in the areas that sort of counts and the biggest area that counts is something called School Library Journal. It's basically a library journal for kids, and that's the most influential publication on kids' literature. They actually got a hold of them and give them fantastic reviews. So we sell a lot to libraries. They get out there. We hand a lot out to people and everybody's kids love them and call us up. We put them out there in stores but people don't quite get it. On the MP3 thing, we're still selling a bunch now on Audible and through iTunes. But the amount of stuff that we're selling is really not paying for the operation. So Toni and I are just looking and saying, "Well, so what. We have enough money." This is just kind of a hobby. We've sold some stock along the way at Nolo, so we've got a couple of million bucks. Eventually Tall Tales will probably pay off or do well. But in the meantime, it's just fun as long as we don't spend too much on it. So we're kind of going along with that kind of mentality. We need to keep enthusiasm up with the two or three other storytellers that become part of it. It becomes like a little repertory thing. Everybody's got day jobs. Ilona Bray does some stories for us and then Rich Stem decides he can do stories, too. He does a couple of really great ones on Ivan the Not so Terrible and Ralphie the Gofer, which kids, especially boy kids, irascible boy kids, just love. I turned out to be better with girl kids and Rich turned out to be better with boy kids. We still have friendly competition to see on iTunes whose stories sell more each month.

I don't know what would have happened totally with Tall Tales. Obviously, we would have had to get serious. Our general idea was we will get enough traction doing this ourselves that somebody will want to purchase them for TV, or movies. We'd be fine as long as we know how to establish ourselves as a little bit of a brand. If we go to Warner Brothers or we go to Nickelodeon or something and say, "Oh, we have children's stories. We're just another children's storywriter. We won't get far." But we learned from Nolo that if you just create the thing, get the reviews, have the entity, suddenly, you're already published, you're already sort of well-known. These things are being sold out there. Then people take you seriously. So we thought, well, eventually it will pay off.

In the meantime, two years have gone by. We're at 2006, just beginning 2007. Nolo is financially okay but is just retreating on every front. It's not doing

anything. The internet stuff is like oh, my god, it's just total pullback. They start doing focus groups on what the covers should look like and decide to put white dogs on the cover of every book. All the individual covers with bullet points on how to do your own this, that, and the other thing, are all going to be the same white dog. The dog is your legal companion. They spend half a million bucks getting some dog on the cover. In my view, the new books and the stuff that's in the pipeline is getting more and more frothy and more and more like anybody would publish in New York, and less and less substantive, like women's guide to opening a business. Our board of directors is starting to get restive because, wait a minute, the whole value in this company is innovative, cutting edge. Somebody's going to swoop in from Silicon Valley and buy this thing for a billion bucks. We'll all make a lot of money. But this doesn't look like the direction we're going in. David is a very smart guy, David Rothenberg does a super good job on all the financial parts of it, but is sort of bringing in mid-level managers who basically just sort of listen to him and his vision is Nolo is just an old fashioned book company and we need to just get some profits out of this and operate it. I think David is not a good communicator with me and with the board. In fairness to him, I've spent like a year or so trying to turn my back on the whole thing. By the time I start paying attention again, I'm really kind of conflicted because I'm trying to think, hey, if you retire, you retire. You don't want to be the old guy that's just coming back and meddling all the time and saying, "Only I can do it, right." That causes me to sort of overdo the retirement aspect. Anyway, to make a long story short, we have this epiphany about two and a half years ago and the board decides David's not the right guy to run the company. He runs a nonprofit in Oakland these days for school kids doing stuff and I think he's doing a great job at it.

But there's really no obvious person inside of Nolo who's going to take over. We play around with a couple of people stepping forward and doing that, and then a couple of the board members say, "Wait. We need to bring in a big person from Silicon Valley whose run a company. So we start talking to headhunters. It's all a little bit of a sense of crisis because David's out of there, we have an interim CEO. Basically, you're looking at spending three or four hundred thousand dollars on somebody you don't know very well, giving them stock options that amount to five percent of the company, and then standing back and is it going to be a disaster or not? And Toni and I just look and say, "This is not the world we know. We have no experience succeeding like this. " Every time we've tried to do the big deal thing, it's never worked out. So I just said, "Okay, I'm just going to go back and do it for a while. I'll do it for a year, right the ship and we'll go from there. We'll sell the company or we will do whatever but I'll give you a year." Basically, most people were pleased with that and really ready to ride with it. It took me a little while to get loyalty back of all the employees because David was an extremely nice guy. He had been very good to employees. By taking this sort of hands-off management style, he had actually pleased some people because they didn't have Jake in there hectoring them. So it took a little while and there was some perception of

unfairness to David. There were many other people who were just so glad that the mediocre crew of managers was just gone with David and we were kind of back to the old days. I think that would be the prevailing view now, for sure, anyway. Of course, you're always hiring new people that are coming in on the internet.

I did it for a year or so. Nolo had a very good year. We were back chasing the internet dreams and doing more and more content online. We were doing SEO, lawyer directory, on and on, and all of a sudden had a plan to actually bring in a couple million more dollars in investment money and expand like crazy right when the world hit the wall financially in September of 2008. We had gone from having a plan to get to maybe almost twenty million dollars of business to suddenly having trailer trucks full of books come back from shopping centers and Borders has been functionally bankrupt for the last year. Books are returnable for credit. Even Barnes & Noble was cutting their inventory back twenty or twenty-five percent. We're talking now in August of 2009. Instead of selling a million and a half dollars worth of stuff in a month, suddenly we would be selling like six or seven hundred thousand dollars worth because all this stuff was coming back as fast as—obviously, what was happening to us was happening to every car dealer in America, every clothing store, every mall store. Lehman Brothers was failing. People's stock market investments were down forty percent. They weren't spending money. We had this like sort of discontinuity that wasn't as big as the Depression, but it's always interesting to see how you're going to manage or deal with discontinuities and some of them are positive. Electricity, automobile, the internet, the personal computer, the internet, and some of them are like the Great Depression or this meltdown, where it didn't make any difference if you're a smart person working on Wall Street and trading your bonds on a little corner and doing fine. Hey, if they're going to lay off five thousand people or whole companies go bankrupt, you'll be affected.

Nolo, in retrospect, didn't get hit as hard as a lot of businesses, but you still were dealing with a year where sales, instead of being up twenty-five or twenty percent, were down nineteen percent. We had people that were privately financing or giving us lines of credit who were saying, "Oh, sorry. We don't know you." Bank of America is our bank and was about to go under themselves. So like all of a sudden, you're facing lenders who you've got a line of credit for two million bucks but they're going to pull it. We'd kind of gone through that in 2001 after the internet thing, so we weren't nearly as overextended. But the last year's been just a very hard year, because the only way to survive was to cut staff. Instead of expanding to 140, from about 125, we had to cut back to below a hundred. So you end up laying off people that you care about and you have to kind of do it on the basis of what the jobs require, not who's your best friend or who's mother has cancer or who's dog is really sick. So the last year for me has been like, okay, you can't walk out of here now because we're teetering, like a lot of people. You've got to do what every business does. Get it back to break even and then get back to being in

the black. At the same time, you've got a lot of competition. So we've done all that. In the first three or four months of when the recession hit in August a year ago, you didn't even realize, necessarily, that it was even happening. You'd lost a million bucks before you even knew it was happening.

We had a year where, oh, you'd lose a million bucks in three or four months and then you break even for the rest of the year. Our fiscal year at Nolo starts in June, so we're in the second month of the new fiscal year. This year we'll make a bunch of money. Things are in the black. If we have to trim a little more because things get a little teetery, it's really hard to know about the world at this moment as we talk, but we'll do that. But basically things are fine, so we can take a deep breath and start saying, "Oh, can we retire again? How the hell do we get out of responsibility for this thing and not have it just completely implode on our heels." At this point, as we were saying earlier, the largest self-help mission, the change of the legal world has all succeeded. We'd made enough money in our lives so, hey, we live in a nice house in Berkeley, we're fine. So it's more like just trying to get a happy landing for the company and for other people at this point so we can, in a sense, retire again and figure out what exciting things remain to be done in life. Everybody's got the five or ten years that are sort of in front of them to look at. The most interesting thing is live in that day, in that moment. Do your thing, go to your yoga class, get your breathing mellow and be here now, as we used to say. At another level, hey, you have to step back.

I have a friend a little older than me who keeps a notebook on how many hours and minutes he thinks he has before he's going to drink his final martini and shoot himself kind of thing. Nobody's good past eighty-five. I'm seventy-three he says. So therefore, I've divided this up. So I'd better be doing something today I want to be doing kind of thing. I'm not quite at that point, but you set a goal for yourself. In my case, I guess the real goal was I don't want to be one of those old people like the people that were the old people in my father's generation. Maybe in my great-grandparents generation, where people tended to die earlier and be active in life up until the end. I can't completely control that, because something like Alzheimer's can come or whatever. But to the extent you can control it, I think the trick is to be okay with being old. Excuse me, to be okay with being dead. You're going to be dead. If you can't kind of come to terms with that, then you're going to be fundamentally desperate in life. You can't be centered. When you're your age, and you're not on the tape here, but your age is like thirty or twenty-eight or something.

12-00:14:38

Stein:

Twenty-eight.

12-00:14:39

Warner:

Twenty-eight. At your age, you can just say, "I don't need to think about this now because I'm sort of reasonably healthy and my genes are okay. I'm not

going to think about death. I will think about that when I'm forty or maybe when I'm fifty or whatever. I'm just putting it off. I'm just thinking now about who's my boyfriend going to be and am I going to succeed in my career or whatever."

My conclusion at sort of my age is, okay, you have to be comfortable with being dead, but you don't have to be comfortable with being old in the conventional way of doing it. My view is I don't have this image of sitting in a rocking chair at seventy-eight and being not able to walk across the room, or shuffling around in assisted living center. I've watched enough interesting people be out there in their eighties who actually are robust. A big key to getting old. Get enough exercise, weight bearing exercise, all that kinds of stuff. There are people who run marathons when they're eighty-five. That doesn't necessarily need to be me. But people who go to a yoga class at the gym who are actually sexually attractive when they're eighty. Maybe not to everybody. Maybe I won't be lucky enough to do this, but I want to be the active, interested, robust person and then be dead.

12-00:16:22

Stein:

Do you see a lot of this as coming out of your generation?

12-00:16:26

Warner:

Yes.

12-00:16:26

Stein:

Of sort of a larger generational mood?

12-00:16:28

Warner:

I think a lot of people had this urge and yearning but have not really done the things necessary yet to get there. Or they are a little in denial about the fact that it takes a little bit of intentionality and creativity to remake yourself into an interesting, active person. The average person who's over sixty watches twenty-seven hours of TV a week. Well, that's not going to do it. I'd say the interesting third of the Baby Boom generation, the people that moved everything in the sixties and seventies are all confronting this together and people are coming up with all these ingenious solutions. My brother, who's a little bit younger than I am, but still in his fifties, lives in a place in Nova Scotia where five families have bought 200 acres and build all their houses in one area. They do dinner together once or twice a week. It's not a commune by any means, but sort of like a community of friends and sort of aging in place. There's millions of choices and alternatives. But it's a challenge. What was that famous book - stages, phases of life? We all go through them. Sometimes we can go through them faster, sometimes we can delay them, but we have choices at each one of those levels and sometimes it's just different choices. I'm going to do this now as opposed to this or this or that. Sometimes we get it wrong. You'll run into somebody who's forty-five years old and really always wanted to have children and have a family but didn't manage to pull it off because they made other choices and feel really regretful about that.

Everybody can look back and say, "Well, I blew this aspect of this part of my life." I think if most of us can say we got some of it right and some of it really right and we were true to ourselves in part of it, we did the more brave or courageous thing, then hey, we're doing kind of well. Then there's always the next phase. If you blew a phase, so what. That one's passed anyway. You hope that the way you blew it didn't somehow or other jeopardize your health or something else. Like if you're somebody that did so much acid that they can never think straight again or something. Fortunately, we didn't do that.

Okay, so what are your questions?

12-00:19:25

Stein:

Okay. Well, I'm curious about a lot of things. But as someone who is so well-versed in history, we've talked about some things that you think the books got a little bit wrong. Are there things that stick out to you, as like an opportunity to put your stamp on the historical record.

12-00:19:48

Warner:

It's funny. Toni was talking to me about this story. She was talking about how the shock of AIDS to people has been studied a lot historically—I'm going off on probably a weird tangent here—from the basic facts of the disease, what happened, gay community stuff, and worldwide changes. But there's a history of psychology almost. Within about a year, it just changed the cultures and places like Berkeley or Madison or other places, and people's attitude toward sexuality. It was like everybody got traumatized and fearful all at once. I think a lot of the roots of that, which I've never really seen worked out very well in critical thought, were in the fact that the baby boomers really grew up in their parents world of the forties and fifties, which were very kind of conservative. Even the history of America in terms of the Roaring Twenties or the Gay Nineties. People had come out of the Depression, they'd gone to war, they'd done the stuff, they came back, for whatever reasons, to Eisenhower's America and raised their kids. We were talking yesterday off mic about dating rituals and going steady rituals. In order to actually lie down next to a female creature as a male creature in the mid-1950s, you had to be going steady. To touch somebody's breast, you had to be going steady for six months sort of thing. So it was a very conservative world. Nobody had sex until they were a junior and senior in high school, and then only, usually if it was a woman, if her boyfriend was a little older or if people had been going steady for two years or something.

Then suddenly along comes the pill, along comes the sixties, along comes the tipping point. Hey, we've taken over the world. By the end of the sixties, we had nude everything, nude beaches. All these people have suddenly turned their back on everything they've sort of learned and said, "We're doing this whole other thing. We can do drugs. We can do recreational drugs. That's fine. We can do recreational sex. That's fine. We can have a fantasy about sleeping with four people, and go do it." Your parents didn't even really understand

what an organism was, like my parents. Feminism, clinical discussions of stuff, places like Esalen. Gestalt therapy, encounter groups. I think a lot of people—and I speak for myself a little bit—were kind of amazed that we were getting away with it. Like when is the other shoe going to drop here? When are we going to get punished for having our cake and eating it, too? When is somebody going to say, gee, you really can't go and have a pretty interesting job during the week and go to the top of the Sierra and drop acid and have sex with three people and come back on Monday. Who said you can do that?

So when AIDS came along, it was, to some extent, as if people were being punished. It was as if their parents were right all along. A lot of people in the Baby Boom were at an age where they were kind of ready to have kids or settle down a little bit more. Okay, I've lived in the sort of open community for ten or twelve years but this is not a really excellent way to raise my kids. Suddenly, people you knew who were totally out there were lined up with their two little kids and coaching soccer who, oh my god, wouldn't ever mention that that was me. I had actually run into an old girlfriend on the streets of Berkeley and she said, "Well, Dan so and so is the person I'm living with, so don't breathe a word about anything we did, okay." Because the person had closed that chapter. I think there's a whole psychology there of what generations went through sort of inside their own heads. The history still kind of needs to be written, or I haven't read it.

12-00:25:05

Stein:

Some historians talk about the sexual revolution of the mid-sixties as being a male sexual revolution.

12-00:25:13

Warner:

Yes.

12-00:25:13

Stein:

That men were now freed to have sex with fewer penalties and societal consequences, whereas women were still expected not only to live within a double standard, but were not really free to say no. They were free now to say yes but maybe not free to say no. It doesn't sound like that's the story that you've described, but does that ring true to you?

12-00:25:33

Warner:

I think in the early years of it, that was probably true. I was not in the South in the civil rights movement. I was doing research for lawyers in the South. But if you go back to civil rights days, women who came down south were still expected to get the food and provide the sex, while we were liberating African American folks. But the women started fighting back in the feminist movement, which was really very strongly underway by sixty-five, sixty-six with leaders, parades and movements, at least in places like Berkeley. Fundamentally, men always have to ask for sex and women control it. So yes, men, at some times in history, through force and violence or through the way

society is organized, can maintain a sort of patina of control. But even in Iraq or Iran today, women are not powerless in all this.

I was still married in the mid-sixties, late sixties and being monogamous and doing this stuff. So my experience of it really was more like sixty-nine onwards. But I know the moment, for example, I got divorced, the first people that were on the phone were women who wanted to have sex with me. I was not controlling that. I was amazed by the change from the time I was sort of dating in the early sixties to being married until sixty-nine or something. Female law students or something that would be working for me would invite me to a party. I remember it was a big moment in my life when I realized I could say no, because I would have sex with people I didn't want to have sex with because men always just want to have sex with everybody. My god, any chance you could get. Certainly, after being married for a bunch of years, I would be like the typical guy who would say, "Okay, now I've slept with five women." I'm going to sleep with more women. Then, all of a sudden, you realize, wait a minute, half the world or more, especially more here because it was such a center for gay men, the Vietnam War was killing people. As we were talking about earlier, women tend to mate with people older. So every year there were more women and less people older because the Baby Boom was kind of getting bigger. So for people born in fifty-two, for example, even though the Baby Boom was big in forty-seven, by fifty-two, it was three times as big. So sitting there being born in forty-one and being sort of an attractive, heterosexual guy in Berkeley who knew how to take care of himself a little bit, had enough money to go to a restaurant or something, I could have unlimited sex. It was at least as often that women were asking. Being me, I didn't have to go into the co-op or something and hit on the cute chick or go to my encounter group and hit on people. On some days all you had to do was smile. But sexuality became at least way more democratic than it had ever been before in life and birth control had liberated women from the fear of pregnancy and that changed stuff really fast. It was amazing how fast people's attitudes changed. I think probably throughout history a big factor in women's stuff is, "Wait a minute. If I'm going to mate, if I'm going to have children, I need a really controlled environment." This is like from very deep biological imperatives, probably. "My child is not going to do as well if I don't have a mate, so therefore, there is all this stuff that's in my DNA about what I need to do to maintain a good environment for the success of the child kind." Yes, there were a few sexually transmitted diseases around, but it was kind of like catching a cold or something. Every couple of years you'd catch a cold or the flu and you'd go take some pill and you'd be fine.

Berkeley was a place where women were, because of the university, in kind of soft careers. It wasn't a place with like manufacturing industries. I knew a lot of women in Berkeley who were so frustrated at not getting enough sex because there were so many gay men. There was such a surplus of women. When I was doing my—I may have talked about this before—my improvisational theater stuff, I'd just walk into a room, and if there a new

class, I'd know some people. But I could tell from the first minute how many times I was going to get laid in that class by the number of men that were there. If there was one guy and if it was just me, I would never get any sex whatsoever. If it was four guys, I could have sex with everybody because the women would be all kind of vying. The odds were good enough in their favor. One in three was okay, but otherwise they'd all bond together and just be feminists, right. But lots of women in Berkeley, friends of mine, other people, would move to Mendocino County. They'd move to Alaska or something where all the guys would go. Guys were more apt to go back to the land. "Oh, I'm going to do this career change and move to Cooke, Alaska and be a fisherman or something." So in places like that, there would be four to one men.

12-00:31:44

Stein:

Oh, I'm just curious. Having lived in Berkeley really consistently for what, thirty-five, forty years?

12-00:31:49

Warner:

Yes, I moved here to go to law school in sixty-three. So, my god, forever. Forty some years.

12-00:31:53

Stein:

You've obviously seen significant changes here. Do you still feel the legacy of the openness you've described here, whether it be sexually or politically?

12-00:31:02

Warner:

No. I think that because of the university and because it attracts smart people, there's always new frontiers. The University of California is doing all kinds of interesting stuff on green everything. Berkeley will always be a place of intellectual ferment. But a lot of the left-wing political ideas that were worldwide - we love Cuba, we love Eastern Europe, we love this - turned out to be, for whatever reason, kind of the death of socialism. Not terribly successful. I'm not saying necessarily the capitalistic alternative is so wonderful. But Berkeley, intellectually, I think, went down a lot of intellectual dead ends politically. I can say this a little bit for somebody who has a business and does creative stuff and makes value and has smart people working. Berkeley is a very unfriendly place to entrepreneurial start-ups from the tax structure, from the city structure. You go downtown Berkeley and you see a dead zone in terms of stores. Half the places are boarded up.

When I came to Berkeley, it was vibrant. There were department stores downtown Berkeley. Every shop was full. Politics that were very well meaning in terms of allowing a lot of permission to homeless people, say, or other things, financing city programs off of parking meters so that people simply won't drive to downtown Berkeley because it costs a dollar to park and the meter maid is following you around, is going to give you a seventy dollar ticket. Why should you do that when you can go to some shopping center two miles in the other direction? So I don't want to take off. But I think Berkeley

had a real leadership position as a wonderful city in the thirties and forties. The police department was famously progressive. They had loads of good policies. But somehow or other, a lot of politics in Berkeley have kind of become sort of lockstep, just haven't really worked very well. I love living here but there's a lot of things that need to change. Sounds like an old guy, yes.

12-00:34:54

Stein:

It sounds like someone who's lived here awhile. Then lastly, to tie back into all of the legal stuff that you've been involved in your whole life. I'm just curious at this vantage point where you see the future of the American legal system. Or which currents of change do you see happening or do you think would need to happen as you're stepping away sort of from a more active role in the company.

12-00:35:18

Warner:

Yes. Well, there's many good things that are built in at this point, where the system is a lot less adversarial than it was before. The ability to take disputes and provide alternative dispute resolution, mediation being one of them, is a big change in the right direction. The fact that the courts and the system now are expected to provide information is really positive. In 1970, literally, if you wanted to go and do a guardianship or a stepparent adoption, the courts would have thought providing you with even one piece of paper with the instructions would have been ridiculous. This was like practicing law without a license. It would be like the IRS. It was exactly like the IRS not even publishing the pamphlet that would tell you what the tax rules were. Maybe those pamphlets are sort of hard to read and we've had private companies, like Intuit and others, disintermediate the pamphlet, which is fine, but at least they had the pamphlet. Well, now they have the pamphlets in the courts again and there's kind of an attitude that people are way more welcome than they used to be.

Having a truly democratic legal system where your goal would basically be to say that as citizen you have a reasonable opportunity to get a dispute resolved fairly. There's loads of different aspects of the legal system, but let's take one. If you were having a lawsuit about money, for example, somebody was redoing your kitchen, which these days could be at least a \$50,000 job, doing a remodeling. If you have a dispute over that amount of money, is it realistic that the legal system now is going to help you resolve that sensibly? The current system with lawyers charging three or four hundred dollars an hour for discovery, which is the lawyers favorite reform of the fifties that turned into the biggest scam ever, where it's malpractice not to investigate every single fact before going to court meaning you have all these depositions and questions. So to prepare that case, that \$50,000 case could easily cost you ten to \$20,000 on both sides. So wait a minute. For a dispute of \$50,000, we've created a system where everybody loses from the start.

So one of the big challenges going forward would be to create small claims court like courts where people feel competent and skilled enough to at least be able to handle disputes up to whatever the threshold level is where it makes economic sense to get expert help. Businesses that have sixty million dollars in dispute are always going to get experts and they can't not. They've got boards of directors to answer to. So at that fundamental level, taking small claims court from where it's say, now, at \$5,000, \$7,500 in California and in a lot of states, but I'd like to see it up to \$20,000 right away and \$50,000 before too long, with an advisor system and places where you have some consumer protection. You could go to a basic friendly courthouse where the court clerks and the system and the judges are working for you. We're a long way from all of that and I have been talking about it for forty years and so sometimes I get almost tired of talking, just channeling myself. So it's got a ways to go.

12-00:39:10

Stein:

Yes. Do you have any final thoughts? Anything else you want to close with?

12-00:39:15

Warner:

Well, I think being able to do this was a lot of fun. Talking to people who may even listen to it twenty or thirty or fifty of years from now if we don't blow up the world and the Bancroft Library is still there is an honor.

12-00:39:34

Stein:

Thank you so much for being a part of it.

12-00:39:37

Warner:

Well, you're welcome so much and also thank you for being so supportive.

[End of Interview]