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#### **N.4: Undergraduate Internship Program: Spring 2014**

Interview N-0033

Barry Nakell

25 March 2014

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## ABSTRACT – BARRY NAKELL

Barry Nakell is a practicing lawyer in Chapel Hill and was a professor at the UNC School of Law from 1970 to 1997. Nakell was an advisor to the Carolina Gay Association and advisor to the Lambda Law Students' Association (LLSA). The interview begins with a brief discussion of Nakell's educational and professional career. He discusses his involvement with gay rights issues and his role as an advisor to gay student groups at UNC. He discusses the transition from approaching gay rights incrementally to an immediate approach with marriage equality as the end goal. Nakell mentions his colleagues, Lightning Brown and Joseph Herzenberg, and the role they played in organizing a conference of gay and lesbian local government officials in Chapel Hill. He also describes methods the LLSA used to raise awareness at the Law School, including bringing speakers to campus and publishing newsletters as well as the how the Law School addressed AIDS and community responsibility. Nakell shares his views on North Carolina's Amendment 1 and the national climate of the gay marriage debate, including his views on the Supreme Court. He recounts the story of Lightning Brown reconciling with his father after being estranged from him because of his sexuality and the speech Brown's father gave at his funeral about acceptance. This interview is part of the Southern Oral History Program's project to document gay activism on and around UNC's campus in the time of the sexual revolution.

FIELD NOTES – BARRY NAKELL  
(compiled March 25, 2014)

Interviewee: Barry Nakell  
Interviewer: Aaron Hayworth  
Interview Date: March 25, 2014  
Location: Living room of Mr. Nakell's home in Chapel Hill

THE INTERVIEWEE. Barry Nakell was born in Michigan in 1942. Nakell studied at UCLA before getting his law degree from the University of Illinois College of Law. Nakell was a professor at the University of North Carolina at Chapel Hill from 1970 until his termination in 1997. He currently practices law in Chapel Hill.

THE INTERVIEWER. Aaron Hayworth is an undergraduate student majoring in Southern Studies at UNC-Chapel Hill and an intern with the Southern Oral History Program.

DESCRIPTION OF THE INTERVIEW. The interview was conducted at the home of Mr. Nakell at 2pm. The interview was conducted at the living room table with only the interviewee and interviewer present in the home. There is little background noise in the interview, mainly due to noise on the table surface. Mr. Nakell has been interviewed twice before for the SOHP with topical interviews on both occasions. The interview is limited to the topics of gay rights and gay student groups at UNC. Although Nakell was open to answer questions with personal answers, he was only interested in speaking to the topic of the gay and lesbian for this interview.

NOTE ON RECORDING. Recorded using SOHP Zoom Recorder #3. The interview was paused twice during the recording for a phone call and a water break.

## TAPE LOG- BARRY NAKELL

Interviewee: Barry Nakell

Interviewer: Aaron Hayworth

Interview Date: March 25, 2014

Location: Living room of Mr. Nakell's home in Chapel Hill, NC

Comments: Only text in quotation marks is verbatim; all other text is paraphrased, including the interviewer's questions.

<u>Time</u>	<u>Topic</u>
	[Digital recording starts at beginning]
0:01	Introduction "This is Aaron Hayworth interviewing Barry Nakell..." Interview to focus on Nakell's work as an advisor to the CGA and Lambda Law Students' Association.
0:26	Background information about undergraduate and law school education and beginning employment at UNC in 1970.
0:55	Recounting history of involvement with gay student groups at UNC and acting as an advisor.
1:40	Discusses prior history with gay rights before becoming an advisor to UNC students. Advising and assisting a young man who was being blackmailed because of his sexuality. Realizing the societal unfairness dealt with by gay students.
4:15	Confronting the blackmailing student and being threatened with violence. "Striking experience for me...I began to ramp up my interest in protecting gays."
5:50	Talks about challenging the law incrementally by using straight couples to establish the underlying logic of a law agreement. NC law prohibiting cohabitation taken to the US Court of Appeals for the Fourth Circuit. (Ensminger v. Commissioner, 610 F. 2d 189.)
8:07	Says former Dean Dixon Phillips declares that it is inappropriate to declare the constitutionality of a state statute and the case was rebuffed. Talks about his disappointment that he never got to address the merits.
9:05	Says he met gay lawyers who were taking up the cause themselves.
9:23	Starts speaking about Lightning Brown and Joe Herzenberg being gay activists and also well respected members of the community. Mentions the conference of gay elected government officials, which he spoke at. Says he sees the conference as a way he learned more about the gay lifestyle and the struggles of the gay community.
11:15	Discussing gay marriage as opposed to an incremental approach to gay rights. Recalls an ACLU annual meeting where the gay marriage issue was brought up and rethinking his incremental approach to achieve gay rights. Realized that even conservative lawyers could approach the gay marriage issue. "Gay marriage is a no brainer"
13:40	Realized that gay marriage would emphasize to the country that the gay community was interested in family ideals and long term, monogamous relationships.

- 14:20 Speaks about the emotional experience of attending a blessing or union ceremony for a gay couple in North Carolina that was held at a conservative church.
- 16:08 Says the more he learned about the problems gay couples had, the more he was convinced there should be no discrimination against gay couples.
- 16:45 Says there are parallels between racial minority groups and the gay rights struggle. Remembers that Lightning Brown convinced him that being gay “was not a choice” and that it was “part of the nature of a person.”
- 18:33 [Pause in recording for phone call.]
- 18:34 Recalls that generally the student organizations were self-sufficient and that they only occasionally needed advice. Says that he was invited to a lot of social functions for the CGA and LLSA.
- 20:08 Remembers having to advocate for the CGA and LLSA to have funding and testifying to the university to help keep funding.
- 20:50 Says that he dealt with a small group of leaders, but cannot remember exact numbers for meetings or groups. There were many gay people who attended for support, but were not out. Did not discuss membership with anyone within the group because people were cautious about being related.
- 23:04 Remembers that while he was at UNC he witnessed the change of name from the CGA to CGLA.
- 24:11 Recalls there were some African American students as members of the CGA during his time.
- 24:28 Defines the ways that the Lambda Law Students’ Association affected the Law School, by circulating their newsletter, publishing in the Law School newsletter, bringing in speakers, and being members of the larger community. Says that Lightning Brown was already well known as a gay activist before he was at the law school.
- 26:10 Talks about the mission statement of the LLSA and how AIDS affected the community and coming together to discuss the issue.
- 27:31 Acted as a consultant for legal advice when necessary. The importance of the student groups as a social scene for the gay community. Students had their own social scene but conferences with the community brought permanent residents and students together.
- 29:17 Lambda Law group was brought up separately from the undergraduate group and were probably drawn to Nakell because he was already known as an advisor to the CGA.
- 30:00 Law students in Lambda did not have many problems within the Law School beyond the prejudices that already existed. There were homophobic opinions in the Law School, but not many conflicts with students.
- 31:08 He did not lose friends by organizing with gay groups, but made new friends from the association. Cannot recall any comments from outside faculty about his involvement. “Law School kind of took it in stride.”
- 32:18 Amendment 1 as an unconstitutional law and thoughts on the pending litigation against the measure. Measures in Utah and Virginia striking down gay marriage bans. The climate of the US Supreme Court looks as if a majority is assembling to strike down bans against gay marriage.

34:17 Has not been involved in gay rights issues in a number of years. Working full time and is using more discretion when taking on cases that he believes in.

36:05 [Pause in recording]

36:06 Teaching a class in law and mental health with Seymour Halleck.

36:53 LLSA fighting NC crimes against nature laws that were discriminating against gay sex. Nakell thought these laws would be defeated by heterosexual couples first, but in Lawrence v. Texas, Justice Kennedy proved him wrong.

38:30 Ensminger couple using their lawsuit as grounds to challenge sexual restrictions not only on gay couples, but on people in general.

40:00 Not sure when the first year he became an advisor to the CGA.

40:36 Speaks about his fellow advisors for LLSA in the Law School, Lolly Gassaway and Winston Crisp. Crisp was an assistant dean and Gassaway was a librarian and professor of the Law School.

41:52 Felt supported by the LLSA during his firing from the Law School, but lost contact with that organization after he left.

42:29 Remembering Joe Herzenberg as North Carolina's openly elected gay official and how he was not bothered by this definition. Herzenberg's legacy on gay rights in the community and the trail named after him.

44:27 Lightning Brown's death of AIDS and his struggle for reconciliation with his family. Believes that Brown's father's words about taking long to accept his identity are the thoughts of the nation.

46:18 Closing remarks and thanks for the interview.

46:39 [End of interview]