Interview with Robert Landis and Robert Freedman
9/18/78

RL: I'm Robert M. Landis, Bob Landis, -- I was Abe Freedman's first Deputy City Solicitor early in the Clark administration and my partner,

RF: Robert L. Freedman, who is his son.

RL: I'm now a partner in Dechert, Price, and Rhoads. I started out practicing law in January, 1947, as an associate here -- not here, but in the Packard building, in the firm that was then known as Barnes, Dechert, Price, Smith, and Clark. It went through a series of name changes as various of our partners will go off into other activities, but I believe it was Barnes, Dechert, Price, Smith, and Clark at that time.

RF: I've been practicing law here since I arrived in September, 1968. This is my tenth year.

(WMP: Would you say also what your father's connections were prior to his work in the Clark administration?)

RF: He was at Wolf, Block, Schorr, and Solis-Cohen from 1929 until 1952 when the Clark administration took over.

(WMP: and he got a leave of absence then?)

Then he left the firm in '52 and then he went back to the practice of law when he left the City Solicitor's office in around April 1956, after about four and a half years.

(WMP: Bob, why don't you tell the story....)

RL: I guess the story of my involvement with Abe Freedman and his life and career in the city government goes back really to my early days in litigation at Dechert, Price, and Rhoads under its then banner. Among the trial lawyers we had were Joe Clark -- among the principal clients we had was the Pennsylvania Railroad company and Joe was one of the front-line litigators for the railroad and in my early training as a trial lawyer I worked with Joe in various kinds of cases -- I think largely personal injury cases. And I believe it was through that that I wound up being asked by Abe to come over and become his first deputy City Solicitor.
Also in those years we were involved with representing Bill Goldman in his anti-trust suit against the movie distribution companies. We had come into that case to aid Bill Grey, who was Goldman's first lawyer, and the principal lawyer on the other side representing I'm not sure which of the motion picture defendants was Abe Freedman in Wolf, Block, Schorr and Solis-Cohen. I first came to know Abe in the course of a voluminous set of depositions that were being taken in which Abe represented his defendants and we represented Mr. Goldman and I participated in the preparation of Mr. Goldman and the various other Goldman principals whose depositions were taken and that was my first experience with Abe as a lawyer. I remember one of the amusing things that even carried over to a later stage of our acquaintance was that Abe had made what people commonly did with my name -- a transposition of my first name with Jim Landis, who was then a prominent New Dealer and law teacher. At Harvard Law School. And so from time to time he would refer to me as Jim. As it turned out one of the things -- part of this I learned later from Abe, but part of it I had heard in advance -- was that when Abe became City Solicitor -- even before he started serving -- he had determined that he was going to upgrade the law department and get some strong support not out of the traditional political channels. The lawyers who were recommended by the City Committee. And the first deputy city solicitor in those days was an old career lawyer named Herman Schwartz. And Herman had been there -- and he was not a political appointee. He was a career person who had had everything to do with every ordinance that had been passed and knew everything there was to know really about the city's legal business. Herman -- well, I really can't speak to Abe's relationship with Herman except that he determined he wanted to keep Herman as a counsellor but not to use him as his principal aid and advisor. Herman had collected all the opinions -- he was a wizard at knowing the legality of city finances. And I don't know how long he had been there. But he really did have an infinite knowledge of the workings of the complicated laws that govern city government -- so he was just a remarkable person.

Then in the beginning -- and I guess this goes to the organization of the department -- Abe first looked to Bernie Boorish. You might want to talk to Bernie about this because Bernie had worked with Abe at Wolf, Block
and he was roughly a contemporary of mine. Bernie was a year ahead of me in law school. So we knew each other very well. And Abe first turned to Bernie as his principal aid in getting things set up and in the work that had to be done in organizing the department.

I don't know exactly when it was that I was asked, but as I understand it Abe made known his wants and had concluded, I suppose, that Bernie couldn't be spared for reasons that I'm not familiar with. And then apparently he spoke to Joe, looking to the possibility of getting somebody who was a young sort of independent-minded lawyer whom he could bring into the administration to serve as his first deputy.

Joe, knowing the work we had done together, came to our firm and asked whether I could be granted a leave. I don't know what the timing was when I got into it, but I eagerly accepted the proposal and was granted leave. It was kind of an indeterminate basis, but I think the thought was that it would be a year or so. And I started detaching myself from the firm and started to ease into the work of the city solicitor's office in the early part of 1953. The election was in '52. No, the election was in '51. And it would have been the early part of '53 that I started dividing my time and I don't remember really when I came over there full-time, but it would have been probably the Spring or early summer of '52. And I became the first deputy city solicitor. There was no inquiry at all about my political affiliations. In fact, I was a registered Republican. I also lived in Gladwynne, where we had moved just a short time before, having lived in Philadelphia from the time we were married. And one of the things that both Joe and Abe insisted on was that the resident's requirements that required principal deputies -- I don't remember just what the resident's requirements were -- be observed. So that it was understood and later fulfilled that I moved into the city. I don't know just when that happened either.

But that's really how it all began. The only other person that can be worked in at this point was that at some point -- I'm not just sure when -- Jerry Shoestack came along. Jerry I believe was on board before I was. He was then a young lawyer out of Tulane, if I remember. He was a law teacher. And I'm not sure just when he came, but he was either there when I arrived or came there shortly after, so that we overlapped to a considerable degree and then he -- when my leave was up he carried on as first deputy city solicitor afterwards. That pretty well summarizes how I came to be there. I can add that in those days another
principal deputy was Jimmy Stern of the Common Pleas court. Jim Stern had also been a career type lawyer and was one of the persons on whom we relied a great deal. He was a Republican and had been there for I don't know how many years before that. Joe Gaffney, the son of a former city solicitor, was also -- I think he had the rank of deputy -- but he ran the city contracts part of the legal department and Joe had been there for quite a number of years. Lee Anderson, now a CP judge, was a Democrat who came in with the new administration and I think he came in very early on. Come to think of it I think it was Anderson who succeeded me as first deputy city solicitor.

There were quite a number of lawyers who had been in the department who stayed on for a time and then for one reason or the other eased off. And there were some new younger lawyers that were brought in -- a combination of what you would call merit selection and political assistance. Dick Markowitz I remember as being one who was with the department. Dick is one of the leading labor union lawyers in town.

Jerry Stern was one of the top trial lawyers for the law department at that time. I. Jerome Stern, who had been an active trial lawyer and continued in the department.

Let me think who some of the others are.

(WMP: Perhaps you would get on to the subject of what were the problems you faced.)

I guess the first problem was the problem of having a vital new administration take hold of the first government that had been manned -- I should say peopled -- by Democrats since the Civil War. So that here was a brand new government of very eager, very able people who had been drawn from not only Philadelphia but from other parts of the country. Jim Dixon from public health came from Denver. And Buck Sawyer, who came out of the Bureau of Municipal Research, and had been brought to the Bureau from Michigan. And of course I don't need to talk about your own background, Walter, because you were in that group too. And it was that kind of administration.

So it was that kind of administration. So the first thing was really to get that eager, able group of people working together in solving the problems. And then of course the most momentous thing was that this was the first public exposure of the Home Rule charter, which had been the first home rule government that had been established in the state of Pennsylvania. So that the combination of those two things made it a really unique period in our city's history. And made it an exciting time to be present
RF: I would guess the real problems would be two-fold. Number one would be, as I remember it, any new department would have some new people coming in as well as new ideas because it was such a new administration with new ideas. So that would be part of it. You would have to get that done. And I guess into that category would fall things like the Mercantile License Tax business, where the new administration wanted to do things that the old one hadn't done so they needed some money. So they had to find some way to raise taxes and one possibility was to find a tax that would be legally upheld and the Mercantile License tax was decided upon. And that raised some money so that some programs could be done.

But the other thing, as I recall, was that this was the first administration with a home rule charter. So that particularly from a legal point of view there was this new creature that had to be analyzed and of course it was attacked by some people as soon as the administration came in. So there were two activities going on from an analytical point of view that I can think of. One was getting the new things done that the administration wanted to do and the other was working out how the home rule charter was going to operate.

(RL: And one of the important things too was that while the Democrats had scored a stunning victory in the election and had done it with a kind of good government approach, it was a political party. It was made up of people who had their background in the work of politics but had some outstanding political types like Jim Finnegan, who became President of Council and Mike Byrne, who became the deputy to the mayor. And the party that had been routed, or at least defeated, was still there with its basic political strongholds in some of the so-called row offices in the Board of Revision of Taxes and the sheriff's office and in the various other offices which coupled with the home rule charter had to be consolidated under the city-county consolidation act. So that the combination of these two things -- starting a new government, starting a new government with a new charter, and amalgamating these so-called independent offices into a home-rule city government did present just monumental legal problems, most of which were ultimately fought out in the courts. And fought out over the resistance of the political offices that were to be consolidated.

(WMP: Would it be correct to say that all of the service departments -- both county and city -- were brought under
the mayor and the city government as distinct from the old county, which was discarded?)

RL: Broadly, that was so. There was one other thing and this particularly affected the operation of the law department -- under the Home Rule Charter the law department is said to be and declared to be the source of all legal advice for the whole city government, including Council, including the mayor, and including all the departments. Under the old system each of the departments and each of the offices had its own solicitor and the solicitors were for the most part politically appointed lawyers who had their own practice and acted as a legal advisor. So that one basic principle that Abe laid down was to see that the rules set out under the charter -- that all the legal services, all the powers of the chief legal officer of the city, were concentrated in the city law department under the City Solicitor and that the vestigial lawyers -- the lawyers who were still serving the departments -- were gradually phased out. That took some time and it was done on a fairly -- on a gradual basis. I don't remember when the last one of those people disappeared but there were fairly strong political lawyers around who held those jobs. Herb Levin, for example, who went on to be a Common Pleas judge, was counsel for the County Commissioners, and obviously the County commissioners then became city commissioners and were very important legal -- not legal -- but very important governmental positions and Herb as their advisor obviously wasn't going to yield easily or graciously to the City Solicitor who was then going to call all the shots. So that that was one of the early battlegrounds in principle to assure the continuing -- not the continuing -- the supremacy of a law department headed by the chief legal officer of the city to see to the advice and counsel of all the departments and all the offices of the entire city government.

(WMP: Were there not several challenges of the charter which had to be ...)

There sure were and there is where I'd like to do some research because we had a number of major challenges that wound up in the Supreme Court and one of them involved the sheriff's office and that was the Lennox case. I must confess that those cases have somehow flowed together in my memory and I can't remember which ones involved which offices. But I think it would be useful to remember too that the court system
at that time was totally dominated by the Republicans because the Republicans had been in for years and we then had the old breakdown of the courts by separate courts. And at that point one of the key courts was CP 2, which was headed by Judge Carroll. And Judge Carroll, apart from being a very forceful personality, was a very important political figure in the city. So that between CP 2 and CP 3, which was then headed by Judge (?), I remember those were the two principal courts where the early charter battles were fought out in the lower courts and neither of them was receptive to the whole notion of city-county consolidation and the supremacy of the homerule charter.

As an example, among the things that I remember having to do at sometime, I don't know when this came about, but as a part of the overall planning for the city there was to be an incinerator that was going to be built up in the area somewhere near Jack Kelly's home. I can't remember the location of the incinerator but it did -- it fell to me to represent the city in CP 2 in that case. It was to be heard non-jury before Judge Carroll and I remember walking into court to present the case and of course Kelly wasn't a part of the litigation but he was present in court and when Judge Carroll saw Jack Kelly sitting in the courtroom he beckoned him up to the bench, put his arm around him, walked him back into his chambers and then the two of them emerged and then we presented the case of the incinerator. And I guess I needn't add what happened to the case, but the incinerator never got built where it was supposed to get built. I think that's right. In any event, we were unsuccessful in that little undertaking.

I really think I should go back to refresh my memory on some of these cases because while I have the briefs over there and I think I have some of the newspaper clippings about the cases themselves I honestly can't sort them out right now.

There were these major tests. There was also a whole series of cases that arose under the mercantile license tax, which as Bob says, was one of the important revenue raising proposals -- a new technique, a new mode of taxation, to raise the revenues that the administration needed at that time. And in that -- once the ordinance was enacted -- I do remember there was a whole series of challenges mounted by different branches of industry against it. The main thrust being at the licensed vehicle and the main argument being that since a license was required there was no way that the city could
impose a license on these various kinds of industries because they were either licensed by the state or couldn't be made subject to license tax at all. And it was on that legal ground that most of them fought out. Some were successful, some were not. For the most part the constitutionality ordinance was sustained.

(WMP: There was an earned income tax that was enacted. Is that what you are thinking of now?)

It wasn't exactly that. The wage tax had been there before. There were changes in the rates over the years but that had been -- Philadelphia along with other counties had done that. But the mercantile license tax was a way to get at some sort of graduated form of licensing that would require a business doing business in Philadelphia or a service person or business to get a mercantile license tax from the city in order to engage in whatever business it might be. The lawyers, among others, attacked that on the ground that they couldn't be required to take out a license to practice law under the license they had already received from the state. And the lawyers were successful.

(RF: Actually, the city-county consolidation cases -- Lennox vs. Clark -- and some of the other ones, I would suppose my father was particularly interested in those and I guess that was because he was one of the people who drafted the charter so then he had the opportunity as City Solicitor to argue that it was valid. So I would think that he would have been particularly interested in that.)

RL: Well, that certainly is true because they used to refer it to the three wise men who put the charter together. The three wise men were Abe, Bob McCracken, and Bill Schnader. They were the three persons -- I should quickly add that in that process I had no part. All of that had taken place before 1951 when the charter was finally ratified or adopted by the voters of Philadelphia and the -- I guess the work -- Walter, you would know that because you were in on that from the beginning, as I remember. But those were the three draftsmen of the charter and as Bob says since Abe was one of those persons he had a creator's and author's proprietary concern about the frame of government that had been created by this and it was fortunate that someone who had known how it had originated and had had such a primal part in putting it together was there at hand when the attempt to subvert it took place.

(WMP: It was GPM that promoted the idea of a new city charter and then some of them got onto the charter commission.)
RL: Well, those are the three persons who are thought of as the principals -- of course they had a staff. But it is certainly true that the chief concerns were city-county consolidation. And one of the reasons why it was an interesting legal problem was because our origin of home rule is in the state constitution because broadly under the rule of parents patrii the state over-arches everything and any municipality or subdivision is just a little piece of the state's ultimate political and governmental power and in order to have home rule come into being two things had to happen. One, there had to be a home rule amendment put into the Pennsylvania constitution and that was done about 1948 and then --

(tape change)

RL: I think at the time we broke I was saying that first the constitutional amendment granting the power of home rule was added to the constitution and then the first class city home rule act was enacted which set out the powers of the first class city of which there was only one -- Philadelphia -- to establish its own home rule and the key to the interpretation of the charter and to defending the powers that were given the city was to make certain that the limitations that were set out in the first class city home rule act were not exceeded. There were some areas in which the city government was fenced off. And those were areas that were described as being areas of state-wide concern. For example, the election laws is one thing that comes quickly to mind. Those were still reserved for the power of the legislature. Then of course there was also the city-county consolidation amendment which was again an amendment to the constitution and it was that that had to be executed as a part of the established new government. And if I remember correctly, in the appendix of the charter as it was published there are continuing references to the city-county consolidation amendment which made certain provisions contingent upon the consolidation of the offices. I think that is something historic. So that was the legal framework within which we had to operate to see that these things were carried out.

RF: There was also something in the charter about the so-called ban on political activities.

RL: Here's the thing on limitations -- section 18 -- Limitations on the power of the city government and this section is the one that hedged in the powers of the city -- regulating public schools -- and you'll remember that in order to permit the city to have the powers to control and operate the public schools there had to be a supplement to the charter, which was enacted -- I don't remember when.
RF: The other thing that I was just coming to was that I remember there was a lot of concern about the ban on political activity that the charter had. Where it said that no city employee could be a member of a political party, except insofar as he would do what any private citizen would do -- vote and make up his own mind, etc. And that caused a lot of flack as you might well imagine and I don't know whether there was a legal case brought on that or not.

RL: I'm trying to recall. I know that there were certain levels of employee that were exempt in the charter. One of the reasons why numbers of deputies was significant was that deputies to commissioners or to other city functionaries were at the level to be exempted from political activities -- exempted from the ban. So that the numbers of deputies was significant and there was -- I don't remember whether we had any litigation over that or not. I know we had a number of cases attacking the civil service -- the new civil service regulations -- because I remember arguing some of them. There is a special section in here that provides how civil service regulations here in the charter -- how they should be applied and providing for the administration of the rules by a commission and then a limited -- I do remember this case -- a limited appeal to the courts from decisions of the commission. When the commission had ruled on whatever personnel action had been taken that was said to be final except for certain limited bases to take the case up on appeal and I think I argued the case in which that mode of appealing cases -- that limited function for the courts -- was upheld by the Supreme Court.

One thing that I did notice -- I pulled down from my shelf this volume of briefs that contains the Lennox case which was the caption under which all the cases that had been brought by the various so-called row offices for exemption from the charter ultimately consolidated and that sets out very interestingly the batting order of the ones who were opposed. I don't know whether we were off or on the record at the time but I did mention that one of Abe's concerns was that each one of these groups -- the Sheriff's office, the Register of Wills, the Commissioners, -- had their own independent council and took their law from their own solicitors and so when it came time to seek their exemption from city-county consolidation all of these stallwarts stood up and sought their exemption and it is interesting to see the line-up that shows up here. Noch Winnet represented the Board of Revision, which was the then Republican dominated
and also the Registration Commission and then in the other group of cases you had Grover Ladnor, who was a retired Supreme Court justice who was attorney for all of them and each one had his own separate council and for the Sheriff it was Joe Gold and Frank McClenahan. For the Register of Wills it was Allen Doty. For the County Commissioners it was Herb Levin. For the Recorder of Deeds it was Ben Donolow. For the Clerk of Quarter Sessions it was Henry Dubbs. I don't remember who he was. And for the Coroner it was Phil Freed and each one of these had been the solicitor for each one of these groups. And that was the line-up.

(WMP: did they work together?)

Well, that group filed a separate brief. And then there was another brief filed by Noch Winnet for the Registration Commission and the Board of Revision. I guess they did. I doubt that there was a great deal of collaboration. I think they probably looked to Noch Winnet and to Ladnor as the lead counsel and the others just had their names on the brief. I don't remember who argued the cases except that Abe obviously argued the cases for the mayor. It went to the Supreme Court of Pennsylvania and the Supreme Court -- I have the opinion here -- this one came up out of CP 3 -- the opinion of the majority of the Supreme Court was written by Chief Justice Horace Stern, with Justice Bell and Justice Musmano dissenting and concurring. I guess for different reasons. Justice Bell was the principal Republican protagonist on the Supreme Court and Justice Musmano was a Democrat. I don't know that he was a protagonist for anybody but Musmano. And what they held was that the Sheriff, the County Commissioners, the Clerk of Quarter Sessions, the Recorder of Deeds, the Coroner, the Registration Commission and the Board of Revision of Taxes became city offices under the city-county consolidation amendment and subject to the home rule charter. And the Prothonotary -- the Register of Wills is left out and the Prothonotary I think was left out. The theory being that both of them partook of the judicial power and therefore could not be brought into the city-county consolidation. I think that's right. Before we stand on that I want to check that.

Let's see --

RF: It seems to me that there really were a couple of things going on. Number one was the city charter changed the organizational chart of how the city was organized -- that there was now a managing director and there were different departments so one job was to get those different departments organized and operated. And there may have been legal problems in connection with that. Who had authority for what and where exactly the dividing line was drawn. The other
question -- to backtrack a moment -- the city-county consolidation obviously affected that because there were some people who were now subject to the charter who really did not wish to be subject to the charter so that there was a dispute about it which made matters -- which brought matters into court.

The other thing was that the city charter, as I recall, expressed a philosophy of how the city government should be run. Mainly that it should be a merit system and that people should get jobs based on their talents and that there should be a civil service system so that people shouldn't get fired if they vote one way or don't give to a political party or that sort of thing. And number three, that city employees should not engage in political activity. There may be other things that I have forgotten. I guess the other thing is that everything should be organized in a rather businesslike way and therefore there would be city-county consolidation and there would be a managing director to oversee the responsibility for certain departments and things would be centralized a bit under the mayor instead of having, as had been the case in the past, a number of independent, in effect, fiefdoms. And the problem, I guess, was how to get this change in philosophy of government across to some of the people who claimed they were not subject to it. And that's what these law cases were about, essentially.

RL: And to do it, also, in large part with the same people still doing the work of the city offices in the same offices while there were changes in the cabinet positions and in the commissioners who headed up the city departments in the so-called row offices. The same people were still there and below them were the same spear-carriers and water-bearers of the parties that had been there for -- they got their jobs that way. So that it was in a sense imposing a new form of government and doing it with the same people who had run the old one. That's a little too loose a generalization but that I think illustrates the point that Bob was just making that this was a profound change in the form and philosophy of the government and it was a change that had to be brought about using many of the same people who had worked under the old system.

(WMP: But the top echelon were all new, brought in by Clark and...) That's true. Except for the row offices. And I would like to comment about that because I touched earlier on what a time
it was to be working in this government because they were new people and they came at the thing with a dedication and a zeal that I guess new people often bring to more important tasks.

(WMP: I'd say integrety, too.)

Of course. And one of the great things about it was the way people worked together. There were some forceful personalities of course but notwithstanding that I remember many nights when whoever happened to be on a particular job would go to Horn & Hardart's and grab a quick bite to eat and it would be Buck Sawyer, Abe Freedman, and whoever their aides might have been. I remember Tina Weintraub was one of the persons who was one of Buck's deputies. And maybe the mayor wouldn't be there but Mike Byrne might well have been. And it was that kind of thing -- I don't mean to say that we didn't sleep -- but we worked very hard and very willingly. And that was the mood that certainly pervaded the scene all the time I was there. And I'm sure persisted after I'd gone. But it was an exciting time to be in on these things and it was just a mood of newness and working in unplowed ground and it certainly was an unparalleled experience as far as I was concerned.

(WMP: I think you've given the general picture of it and when you get the transcript if you want to add anything....)

RL: Well, there are some other things. I think the Mercantile License Tax, for instance, I haven't touched on that at all and I need to do some homework on that. And what I'll do is dig out my old logs and see what things I can find.