

W. Lindsay Smith

Interviewee: W. Lindsay Smith

Interviewer: Courtney L. Tollison, Ph.D.

Date: February 4, 2005

Transcript

PART 1 – 00:00:00

Dr. Tollison: Ok, today is February 4th, 2005. My name is Courtney Tollison, and I am talking today with W. Lindsay Smith, the 4th?

Mr. Smith: Yes.

Dr. Tollison: And we are sitting here, downtown Greenville, South Carolina, in your law offices, Womble Carlyle..., oh what's the full name?

Mr. Smith: Oh, you're doing pretty well. Sandridge and Rice. (laughing)

Dr. Tollison: (laughing) Womble Carlyle Sandridge and Rice.

Mr. Smith: Correct.

Dr. Tollison: Let's see. Let me go over some of this biographical information and then we can get started with some of the questions.

Mr. Smith: Alright.

Dr. Tollison: You were born in Greenville, November 16th, 1952, and attended Furman University. Majored in Political Science. Graduated in 1974.

Mr. Smith: That's right.

Dr. Tollison: You're a member of Blue Key, Junior class president, on the University Court in your Senior year, and was elected to Quaternion. You attended USC Law School and graduated in 1977, and began practicing law in 1977 as well?

Mr. Smith: Yes.

Dr. Tollison: Ok. And currently serve as President of the Furman University Foundation Incorporated. You were..., you started on the initial board for that organization, or for that foundation, and began serving as president in 1999.

Mr. Smith: That's right.

Dr. Tollison: So, are you the first president?

Mr. Smith: Afraid I'm the first and only.

Dr. Tollison: (laughing) And you continue serving at this point and time?

Mr. Smith: Yes.

Dr. Tollison: In 2005.

Mr. Smith: That's right.

Dr. Tollison: Ok, great. I understand from our discussion before we turned the tapes on, that both of your parents were on the Music faculty at Furman. Your mother, Charlotte Smith, and your father, W. Lindsay Smith, he was the third?

Mr. Smith: The third.

Dr. Tollison: And uh, if you could tell me a little bit about growing up here in Greenville, and your experience, or your memories of Furman, growing up as a child, and spending time on the campus because your parents were always there, that kind of stuff.

Mr. Smith: I remember absolutely nothing about the old campus. I think that by the time I would have been old enough to have gone out there, the campus had already relocated and the students were out there. What I do remember, although only vaguely, is that at that time, the university system, the old campus, where the men were, and the women's college, which was located on College Street, where the library and the art museum, and the Little Theater are now. There was a row of buildings there, and I know that my mother, probably my father, taught classes in one of those old buildings. And you know it's funny, about the only thing I really remember, in terms of ever going out there, was that they did have a May Day, which I just remember there being some sort of a festivity out there, when all the women were all decked out, of course I was just a little kid. So, I just had sort of a general memory that we would go to the May Day to participate in whatever those festivities were, and that everybody was out in the lawn, and on the steps, and you know, it was nice weather, and they did whatever they did. So, it's not much of a memory, but that's really about all I really recall, because I think that pretty much the entire campus must have gotten out to its current location by the time I was, you know, six or seven years old, because I just don't really have much of a recollection of anything else of that area.

Dr. Tollison: Both of your parents, because they were music faculty, which was based on the women's campus, so both of your parents worked on the women's campus. Is that correct?

Mr. Smith: I'm not even sure about that.

Dr. Tollison: Ok.

Mr. Smith: You know I guess I was young enough that I really didn't have that much of a sense of what was there, or where they were. I know that my mother would have taught there, and I imagine my dad did too, but I just don't know. I really don't.

Dr. Tollison: Do you have any memories of the new campus, as a teenager I guess?

Mr. Smith: Oh yeah, yeah, you know, I don't know that I spent a great deal of time out there, but when I was uh, I guess it would be ten years old, ... nine or ten, my parents moved. We had previously lived on the Augusta Road area, which at that time, I'm sure that's where we lived when I was born, and that certainly was convenient to the downtown campuses at that time. I think it was in 1961 was when we moved. My parents built a house that was over in the Stone Lake area of town, which is where they still live, and we moved, I think it was before I started the fifth grade, because obviously the campus was now on the far side of town and they wanted to be somewhat closer to where they had to go to work, and so we built a house and moved in over there. The campus was accessible then. You know, I have sort of general memories that there would be times when we would go out to various performances at McAlister, and I'm sure that I probably spent some time in most of the other main buildings that were on campus at that time. I know the dining hall, the library. I'm trying to think what else was actually there. I probably was not in the dorms.

Dr. Tollison: The student center?

00:05:41

Mr. Smith: Not early on. The student center was built probably about the time, I'm guessing, that I was getting towards high school age.

Dr. Tollison: It opened in the fall of sixty-five.

Mr. Smith: Ok, yeah, that would be..., I would be thirteen, so I guess that's about right. I think I remember it by then, although again, I don't know that I ever spent a great deal of time there.

Dr. Tollison: Where did you go to high school?

Mr. Smith: I went to Wade Hampton High School.

Dr. Tollison: Ok, ok. So, what about your decision to attend Furman?

Mr. Smith: Well it was a different ball game back then. I always just sort of knew that I wanted to go to Furman. I liked it. It's probably all I ever knew. I think the main thing that has changed is that back then schools did not recruit students. Students went around and recruited the school that they wanted to go to. So, there really was not that much information available, and my parents sort of said, well you've got to..., you really ought to look around, but I don't think I ever really had in mind that there's another place that I wanted to go. But I did eventually apply to go to Davidson as well. And I did go up for an interview, and a campus tour. My dad knew somebody up there, so he met us and kind of showed us around, and I remember the whole thing as just being a very informal process. I don't know that I had to do much in terms of filling out an application. I don't recall that they had you do essays and all of that kind of stuff. Just my general idea was that it was just a pretty informal process.

Dr. Tollison: Mm-hmm.

Mr. Smith: But anyway, I remember I got put on the waiting list, and so that just sort of made the decision real easy. I was accepted at Furman, and I was waiting list at Davidson, so I just said, "Furman it is." Never looked back. And, you know, it was obviously the right decision. Actually, I think there probably was one thing that did help solidify that decision. Furman had a summer program that high school students could attend in which you would live on campus for about six weeks, and you attend a couple of courses that were taught by full professors. And I remember that the professors that I had were just marvelous. It was Bill Lavery, no I'm sorry, Bill Leverette, excuse me, Leverette, from the History Department.

Dr. Tollison: Oh, they're both amazing.

Mr. Smith: And John Crabtree from English, who is a Shakespearean scholar. I mean it was like education like you never saw it in high school. So, it was quite an eye opener, plus the guys. We lived in the dorms, and uh, to be honest, mostly I remember the guys in there because a number of them ended up going to Furman, and you know I knew them.

Dr. Tollison: Who were some of your friends that summer?

Mr. Smith: Ed Lattimore was there, John Crapps, David Fouche, uh, gosh, and some others. I'm drawing a blank right now. But there were several people that I knew who ended up going to Furman.

Dr. Tollison: This was after your junior year?

Mr. Smith: That's right. And it was I think really, probably, you know, a good idea in terms

of trying to attract students to go to Furman by giving them exposure to what it was about. And I think, in all honesty, that probably was a big factor in solidifying the fact that that's where I wanted to go.

Dr. Tollison: Did you have any interest in being a music major...

Mr. Smith: No. No.

Dr. Tollison: Once you got there?

Mr. Smith: Absolutely not. I think, you know, to be honest, I probably had the musical talent, but it was a little bit like the "preacher's kid," that I just did not want to be going in the same direction because of my parents did it. Yeah, I never considered it, and I stopped taking piano lessons just as soon as they would finally let me growing up. Uh, but I did have some fun with it. I had a couple of friends at Furman and we'd occasionally do some coffee houses. That was, you know, kind of a nice way of touching it a little bit, but I never had a bit of interest at all in being a musician.

00:10:05

Dr. Tollison: Tell me about the Political Science Department at this point in time, some of your favorite professors.

Mr. Smith: Oh, I had a few. Uh, Don Aiesi was probably the one that I would credit as being the pivotal thing that led me to major in political science.

Dr. Tollison: He was pretty new at that point.

Mr. Smith: He was. I think he had been there a few years, but not that long. Uh, Ernie Harrill was just a wonderful man. I think I only had one course with him. And actually, as I went on through, I took several political thought courses that Jay Walters taught, and I really, really was enthused about those courses. I think a lot of people were not, but it just kind of struck a chord with me and I found them very fascinating and challenging, and so I found him to be just one of my absolute favorites as well. Don Gordon was there at the same time and I got to know him just through the department, very, very comfortably, but I don't think that I ever actually took a course from him, so it was more I knew him tangentially, I guess, than I did directly through any courses that I had.

Dr. Tollison: Right.

Mr. Smith: But Aiesi, Harrill, Walters..., Aiesi and Walters, I guess, in particular, were two of

the most influential professors for me, and I think it was Aiesi who really encouraged me to consider law school. So, I think I got well into my senior year and didn't have a clue as to what I was going to do, and he really sort of said I think you ought to consider, you might, you know, have what it takes, to use that and go to law school. As they say, the rest is history.

Dr. Tollison: Sounds like it.

Mr. Smith: So, he was a good influence.

Dr. Tollison: Tell me about serving on student government.

Mr. Smith: I had never done anything of the sort in high school at all, and when I was a freshman, I was probably like most clueless freshman. I was just sort of there, and learning the ropes, and I think it was in like October or something, they had elections for Student Council, whatever it was called. That may have been what it was called. And some people that I knew said, "you ought to run." And so, for lack of any other reason, I did, and I mean there were like eighteen candidates, and I had friends from Greenville, I guess, who made a lot of banners and put them up around the dining hall. I don't know if they still do that or not.

Dr. Tollison: Mmhmm.

Mr. Smith: Well anyway, to my astonishment I got the highest number of votes. So, I got elected. It was like, oh gosh, I got elected, now what. But, you know, it was a good experience. I got to know a lot of people. I'm trying to remember what sorts of issues that we had when I was a freshman. We had some pretty good ones later on, but I don't really remember just exactly.

Dr. Tollison: What were some of the ones later on?

Mr. Smith: Well really, the fun one, in retrospect, the interesting one was when they..., uh, when we staged a boycott, no, no, I'm sorry, a sit-in. Uh, they didn't have open dorms. That's what it was called then. Men could not go into women's dorms. Women could not go into the men's dorms

Dr. Tollison: No visitation hours whatsoever.

Mr. Smith: No visitation whatsoever, and that got an awful lot of attention in student government, and there were demands that were just summarily rejected. I think Dr. Blackwell probably thought it was a good idea but nobody wanted to test the reaction of the Baptist Convention, so they just said we can't do it, you can't do it. And at any rate, it was almost, not quite, but it was almost spontaneously ..., a group simply decided, we're going to do it, and um ..., and I think, in fact, ...just trying to remember the very first time, and I think a group of guys just simply went in to the women's dorms. And they had planned it, so the women knew we were coming. Actually, I wasn't in that group, but there were a number

of them who did it. And they simply staged it, and they simply showed up on the dorm floor and stayed for a couple of hours, out in the hall, and yacked, and you know, whatever. Not anything real threatening, but it absolutely galvanized, and the administration, I guess, to their credit, came out a few weeks later with a policy. It was pretty narrowly prescribed, but did permit visitation during certain hours under certain conditions, and uh, you know, and obviously that's where sits-in works as it should.

00:15:06

Dr. Tollison: Do you know what year that was?

Mr. Smith: That was my sophomore year I believe.

Dr. Tollison: Ok.

Mr. Smith: I'm pretty sure that was ..., I remember Steve Johnson was sort of a ..., one of the ring leaders of that.

PART 2 – 00:15:18

Dr. Tollison: As a member of Student Government you probably had access to Dr. Blackwell, to President Blackwell.

Mr. Smith: You know, I'm sure we did, and I knew him. I don't remember specific instances. Oh he was a wonderful man. I just..., he was greatly respected and admired by the students. I mean, that's saying something. That's not necessarily the case with the office, but it always seemed that he had time for us, and that he would listen to us. He didn't always do what we would ask him to do, but we always felt like he would consider it.

Dr. Tollison: So, you felt like he was accessible to you?

Mr. Smith: Yeah, yeah.

Dr. Tollison: What about the student perception of the South Carolina Baptist Convention at this point and time?

Mr. Smith: When I was there we just had the impression that there were things that would

not go on at Furman because of the Baptists. I mean clearly it was the perception that this is a very conservative body, and while we weren't real in tuned to the niceties of what the relationships were, we knew that Furman was a "Baptist school." And the South Carolina Baptist Convention, when they felt like Furman went overboard, they would put the hammer down. We knew that there had been the building..., Science building, that they had rejected the federal grant back in the nineteen-sixties. We knew that they had prohibited, for a period of time, any dancing on campus. So, I think most of the students were aware that there was this constant hammer over our administration that the Convention might decide to drop down if they felt like we "liberalized" too much. So, we were very aware of it, but at the same time, it's the typical student thing, how far can we push the envelope, and I'm sure we did our fair share. And that just comes with the territory.

Dr. Tollison: Any specific instances that you recall in terms of um, being on the student government, and anything specific coming up that you remember could have been potentially threatening? Anything that you all decided not to do because of the Baptist Convention?

Mr. Smith: Um..., that..., I mean, it's sort of funny, I don't have a great deal of memory on any great decisions that we made, or any gauntlets that we threw down to them that says we're going to do this, stop us sort of thing.

Dr. Tollison: What was your perception of Dr. Blackwell's relationship with the South Carolina Baptist Convention? Was he seen as a representative of that body on campus, or was he separate, was he on the "student side?" What was your perception of that?

Mr. Smith: I think he was seen as a good Baptist, you know, a religious man, but not dogmatic at all. I think for that reason the perception generally was this poor man has got to walk a tightrope between what he would like to be able to do with the school and what they're going to allow him to do. And I think most students saw it that way. They knew he had to be with those folks. They knew he had to answer to them, and we understood that that probably was a tough role many times, because I think he was a very open ..., and encouraged open dialogue in a lot of things that have now occurred, he recognized at the time. So I'd say by in large the students viewed him..., I don't know, I'd say either pro-student or pro-Baptists. I think he was pro-open, you know, the spirit of wanting to go out and explore, and to do the things that an educated liberal arts student ought to be able to do. I don't think he favored ..., I think the perception would be that he didn't favor any of these artificial type restrictions that came down from the Convention every two years.

Dr. Tollison: Ok. Tell me about your election to Quaternion. Let me check the tape real quick. Just keep talking.

Mr. Smith: Alright, um, the way that you find out that you've been inducted in the

Quaternion is that the existing members come around, and I think this is right, I hope I'm not mixing it up, but I think that the existing members will come around to your room at about midnight and you were given..., you're taken out and your given the red neckerchief, and your advised that you're, you have been inducted in the Quaternion.

00:20:21

Dr. Tollison: This is either your junior or your senior year?

Mr. Smith: That's correct. That's right, and I remember that my group consisted of myself, I'm thinking of those of us who were seniors, I think it was Bill Thompson, and myself. We were inducted as seniors. In my junior year it was Don Janney and Jack Ferraro, who was one of the guys I had met in that summer program...

Dr. Tollison: Ok.

Mr. Smith: And Marshall McClintock. So, I think it was five of us who ultimately within our class were inducted. There's a very nice ceremony that they had.

Dr. Tollison: Where was the ceremony held?

Mr. Smith: Um, you know I'm trying, I want to make sure ..., we didn't have the um, what's the pavilion? I've been to many of ...

Dr. Tollison: Hartness?

Mr. Smith: Yeah, I've been to many of those when I was alumni, as alumnus, and I'm trying to remember. This one was not there.

Dr. Tollison: Was it in the schoolhouse?

Mr. Smith: Yeah it was. That's exactly where it was. That's exactly where it was. Yep, that's right. And we got, we received our key, and at that time the key would let us into the Bell Tower, and we could, at that time, go into the old school house, and we could play the Carillon if we wanted to.

Dr. Tollison: The Carillon was in the Bell Tower, I mean in the schoolhouse?

Mr. Smith: Yeah, the um, the keyboard, I guess you'd say, was in the schoolhouse. It was locked up, but the Quaternion, we had the key.

Dr. Tollison: Right.

Mr. Smith: And uh, I did that once.

Dr. Tollison: I wonder if that's still case.

Mr. Smith: I don't think so. I think that ..., I think that that, for various reasons, didn't work too well after a while. You know, I think that there were Quaternions who perhaps played it at two or three in the morning, that sort of thing, so I think at some point that didn't work anymore, but we did at that time.

Dr. Tollison: So, did the ceremony reflect ..., was there a discussion of the ideals of the organization and the significance of the membership?

Mr. Smith: Yeah, there was, and it was a very nice ceremony, as I recall. It was not terribly long, but there was a lot of alumni who came back, and the existing members who were on campus inducted the new members, you know, completely student-run organization, and I think there was the history that was communicated, plus in the old school they had annuals from almost the very beginning I think, and it was, you know, you really felt like you were part of something special.

Dr. Tollison: Certainly.

Mr. Smith: It was a pretty moving ceremony, as I recall.

Dr. Tollison: And what about your roll in that organization, the Quaternion organization?

Mr. Smith: Well I've been the Alumni President. Gosh, quite a long time ago, probably ten or twelve years ago, and I worked with Dave Ellison. We sort of helped start the, not start, but just revive the Quaternion Scholarship Fund, because it had sort of been one of these things just where all they did was if you feel like it, send a contribution, so we'd give a few hundred dollars every year, and we sort of elevated it during that period of time where we were able to get one alumnus to sort of provide seed money for a match, and I don't know what the numbers are now, but we're, needless to say, much, much higher than we use to be.

Dr. Tollison: And is this for graduate school, or for a senior, senior year at Furman?

Mr. Smith: No, it is for the ..., it's actually for a Furman student, it doesn't mean you have to be a Quaternion in order to receive the scholarship.

Dr. Tollison: Oh, ok.

Mr. Smith: The real idea is we were trying to attract superior students who had demonstrated the ideals that the Quaternion stood for, leadership, scholarship, athletics, what was the fourth one? Don't tell anybody I don't know. But anyway, the four prongs of Quaternion, gosh, and um, religion, that's what it was, that's what it was, it's those four aspects of your life on campus. So

anyway, we were trying to promote a scholarship that would be offered to a deserving student, or students, who met those qualifications.

00:25:00

Dr. Tollison: Ok. Let's jump to your involvement with Furman since you graduated in 1974 up to about 1989, 1990, pre-Baptist Convention.

Mr. Smith: Yeah, pre-Convention, well you know, it's interesting, I know that I did various things from time to time, you know, I was a Class Agent, which I'm sure everybody gets [inaudible] going through every now and then. I know I did that. I remember that I chaired our, or co-chaired, our class' tenth reunion year, which was a lot of fun. We did some neat stuff, and that was a great deal of fun, and a good way to kind of catch up on people. I'm sure I attended my share of football games, of basketball games, concerts, you know, various things going on, but I don't know that I was really involved in a lot of ongoing activities. Those were more things that would just be an activity, you'd do it, and then you're done, so I don't know that I had a whole lot of just ongoing continuing involvement with Furman. I love the campus. I love the school. I know I did things but those would probably be the primary things that come to mind.

Dr. Tollison: Ok. Let's start talking about 1989, 1990 ...

Mr. Smith: Ok.

Dr. Tollison: And ...

Mr. Smith: How did I come to be involved?

Dr. Tollison: Exactly, problems with the South Carolina Baptist Convention and Furman, and ..., I mentioned this before the tape, but approach it from your perspective, specifically, and try to be objective, I'm trying to say, you know, still try to approach this objectively, approach this from your perspective, specifically, if you could just talk through your version of the events and how you remember it at that point and time specifically, not how you ..., you know, try to put yourself back in 1990 and just walk me through that process, and I'll probably ask you a few questions along the way.

Mr. Smith: I hope you will. You'll probably help me remember some things that I might forget otherwise. I was contacted by Neil Rabon, who I believe at that time was the chairman of the Alumni Association, or president, whatever it is. And Neil contacted me the Spring, I believe its 1990, I don't think it was eighty-nine, I think it was ninety, but anyway he called and said, "I wanted to see if you would

be willing to serve on an alumni committee, and that committee is one that we are forming.” In fact, I think he called it a task force, and it was an alumni task force, whose purpose was to evaluate different things that might be available to the University to be able to do in response to what was going on at the Baptist Convention level, to which my question was, “well what’s that?,” which shows how much I really knew. He explained that starting the previous year, I believe, the Convention had rejected the slate of Board nominees that Furman had sent them, which was what they traditionally had always done in the past. The University would send a slate of nominees and the Baptists, almost without exception, would ratify it, and that became the trustees, but apparently the previous year they had been rejected, and Furman had been sent a slate of trustees who were not ones that necessarily knew anything about the University, or had the University’s best interests at heart, and there was a fear that this would be happening again when the Baptist Convention met again, I think later on that summer. So, Neil had formed, or was forming, a task force to try to evaluate what sorts of defensive measures the University might be in position to be able to take to deal with this new mindset within the Convention. It was sort of an open slate because we really had no idea at that point what we could do, what we should do, but we felt like we just shouldn’t just sit back and wait for it to happen.

Dr. Tollison: And it was defensive in nature at this point?

Mr. Smith: Totally defensive, and there were I think three or four sub-groups within that task force that they formed. I remember one had to do with publicity, um, gosh, I cannot, you know, if I had my file, I know I’ve got it all in there, but there were three or four sub-groups, and specifically Neil asked me to serve on the legal subcommittee that would sort of evaluate if there were any strategies legally that we might be able to utilize to combat what seemed to be coming.

00:30:19

Dr. Tollison: What was your relationship with Neil Rabon at that point?

Mr. Smith: We were just friends. You know, I can’t even tell you when I first got to know Neil, but we were friends. We had, it may ..., no, we’ve got two sons who are the same age, but that would’ve been earlier enough along, maybe they were. I’m trying to think, Ellison would only have been about three or four, so Spence would not have been that age, so that may not have been it. Yeah, I knew him. He’s a lawyer here. I’m a lawyer. We’ve probably had various activities that might have some Furman connection, and I guess over the course of whatever that was I had gotten to know Neil well enough that I guess he thought I might be willing to serve and to participate in whatever that was going to be, where it

was going to lead.

PART 3 – 00:31:17

Dr. Tollison: What's your religious background?

Mr. Smith: I'm a Baptist. Well, I was a Baptist. That's an interesting story. We'll get back to that a little bit later

Dr. Tollison: Ok.

Mr. Smith: But I grew up in the First Baptist Church of Greenville, and was a member, at that time, of First Baptist, and so was Neil, so it could very well have been ..., we had Sunday school class, or something, that we were in together.

Dr. Tollison: Ok, ok. Let's pick back up with you were asked to be on the task force. You were asked to serve on a legal subcommittee of this task force.

Mr. Smith: Ok, and I asked him who else was going to be involved, and I think at that point he had approached Larry Estridge, who I served with and knew very well through professional and Furman activities, and I said well, if Larry is going to be on there then I know this will be a good project to get involved with.

Dr. Tollison: But this law firm did not exist in Greenville at this point in time.

Mr. Smith: Correct, at that time I was with a small firm in Greenville. It was Bozeman, Grayson, Smith, and Price, and Larry was with the Wyche Law Firm here in Greenville, so he and I had a number of transactions over the years which we were not on opposite sides, but we worked together very well. I knew him I think from Furman, plus Larry was legendary at Furman anyway. He blazed quite a trail when he was at Furman. (laughing)

Dr. Tollison: Tell me a little bit more about that.

Mr. Smith: Well he was a Rhodes Scholar candidate. I think he was Student Body President. He was one of these students that professors would frequently mention as having been you know, somebody that you ought to aspire to be like. I think he just had quite a record when he was at Furman, just somebody professors would talk about, which I think is usually an indication of what they thought of somebody. So, you know as I said, I think he just had quite a record. I'm sure deservedly so. He went on to Harvard Law School. I guess that's another thing. Not only did he do well at Furman, but then he imported Furman with him up to Harvard, and I think he was a [inaudible] champion while he was in Harvard Law

School, and you know, again, had quite a record.

Dr. Tollison: Who else was on the task force that you knew?

Mr. Smith: Well at that point it was Larry and I, and uh ..., I swear, I'm trying to remember if we did it this way. I think we did. I think Neil asked us to think about who else might be on there, and Mike Ray, we both, we all knew, or Larry and I did. I'm not sure how well Neil knew Mike back then. Mike Ray, that's what it is, I suggested Mike. He, at that time, was with the Winston-Salem office of this law firm, and somehow I was aware that this firm represented Wake Forest. I knew that Wake Forest had been involved with similar things with the Baptist Convention. I didn't know any of the specifics with the North Carolina Baptist Convention, but I knew there was some stuff that had gone on, and I figured that Mike would have whatever that experience was for Womble Carlyle to draw on. And, he was a Student Body President at Furman when I was there. I think he was two years ahead of me, and I know he worked for a year in Larry's law firm, later on, as a paralegal, before he then went to law school, so he just seemed to be a natural fit for the task force. And so, he joined, and he became a part of it. He also brought in Kurt Stakeman. Kurt was also with Womble Carlyle in the Winston-Salem office, and Kurt was the Student Body President at Furman when I was a Freshman, so I knew Kurt, so, I thought great, good guy, would add something. I think Mike also recommended Jim Drennan. Jim, at the time, was a professor at the University of North Carolina. I don't remember the area. I think it was economics, or history, something like that. I didn't know Jim very well. He was at Furman when I was, but I think he was two, or three years older than I was, and I just really didn't run in the same circles, so, I knew who he was but, I didn't really know him at all before that process. But any rate, it ended up being the five of us serving on that committee, and ...

00:36:13

Dr. Tollison: On the subcommittee?

Mr. Smith: On the subcommittee, correct. As I recall, we felt like in order to be able to figure out what might be available to us, we had to get a better understanding of what is the legal relationship between the South Carolina Baptist Convention and Furman, because everybody says [inaudible] we're a Baptist school, but we felt like we know that, but we've got to see what that relationship entails, and what are the legal ties between the two in order that we could then determine what might be available in the way of any kind of defensive measure to deal with it. So, we met ..., we met once in Greenville, which is where we sort of strategized. I think we met over in Larry's office. I'm pretty sure we did, his office, and we sort of tried to hone into what we thought our methodology, or

our game plan, was going to be about. How do we figure out what do we have to deal with, and you know, there's some obvious things. We would go back and look at our charter. Look to see what sorts of legal documents there were between the Convention and between the University. We would probably have to do some research to see how that fit within the law of nonprofit corporations, which Furman is a nonprofit, and we would have to basically come back and compare notes on what we were able to find. So, we all went out and did some probably overlapping research, because it wasn't, you know, this is sort of a general approach, but it wasn't real specific, but we all did kind of some twists and some turns, and we faxed back and forth occasionally. Somebody would find something that he thought was interesting that we might as a group consider. Then, I'm not sure about my time, but I want to say maybe in June of that summer, seems like we got started in like April maybe.

Dr. Tollison: Spring of ninety.

Mr. Smith: Spring of ninety, and then I think at some point in that summer we did schedule a meeting to have up in the Womble Carlyle Charlotte office. Thought being that's about half way between those guys in Winston-Salem and Larry and I here. So, we got together in Mike's office, and we spent the better part of a day up there. I'll always remember that meeting because we all started saying you know, here's what we've found, and at some point we all realized, you know what, we all are saying the same thing, but nobody's really saying it directly. That same thing is we're not sure that the Baptist Convention owns Furman. We're not sure that they have the right to direct the University, the right to select the trustees of the University, as everybody has always assumed that they do.

Dr. Tollison: What about the tone of this meeting?

Mr. Smith: Well ...

Dr. Tollison: And this revelation. (laughing)

Mr. Smith: Yeah, well the meeting started off as each one of us kind of, you know, we just ..., it was informal, first of all. Very informal meeting. Mike got us a conference room and we were just in there. I remember at one point he showed us an area outside of the window seal of the room. This was like on the thirtieth, or thirty second floor, and he told us to go look in the corner, and there was a whole bunch of bones over in the corner, and he said we've got a hawk who has made a roost over here and will frequently go down in the early morning hours and dive bomb, and get rats, or whatever stuff, and then bring them back up here and devour them. I don't know why I remember that trivia, but I do. But I mean it was that sort of ..., it was an informal thing. We were trying to poke at what we all brought back to see where are the holes in this, where is the funnel. How does this relationship either stand up, or how does it fall, and what we had found was that the original charter ..., this is where I wish I had my file, I could

remember the whole lot better if I could pull all this stuff out, but Furman's original charter was granted by the legislature, and it was back in the 1840's, I think, and back at that point in time you didn't have a Secretary of State, and a charter actually had to be granted by the legislature, so the General Assembly actually formed, created Furman University, and did it by the enactment of a law, so it was the corporation will be known as Furman University. I just don't remember what the language was, but it had language in there about the South Carolina Baptist Convention, and you know, there was some issue, I think, in our minds just how it went about establishing the relationship, but it seemed to say that the Convention would appoint the trustees. Now we found that at some point around the time of the Civil War, Furman's charter actually lapsed, because back then you didn't get a charter for perpetuity. Let's say that Furman received a twenty year charter, and then apparently, a little longer I guess with all the stuff in the Civil War, and the reconstruction afterwards, as you, as a history professor would be very aware of, things were a bit in shambles, so there's no real clear record, but Furman apparently went out of existence at some point simply because their charter was for a finite period, and there was no record that we were ever able to locate that showed that Furman either renewed its charter, or got a new one, or whatever. But at some point back in the, I think it was the 1890's, it started reappearing again, and so, about the only assumption you could make was that somehow that original charter was still out there. The state passed a statute in the early 1900's that provided for a number of things in corporate law. It sort of was the beginnings of the modernization of corporate law, but it passed a law that established the existence of nonprofit corporations, and what you had to do, and as I recall, it provided that, and there were a number of provisions, but the one that was pertinent to us was that the members of the corporation had to appoint its directors and trustees. So, the question is obviously who were the members of Furman University. Whether it was members of the South Carolina Baptist Convention, well what did they impact as the Convention, what attributes of membership did the Convention enjoy? You know, could it go and do those things that would involve itself in the day to day operations of the University, you know, what did they do? I think the conclusion that we eventually got down to is not a lot, ... not a lot, and our conclusion was that under the non-profit statute, the members of the University really were those trustees who ran the affairs of the University. So, given the fact that there was a lot of development of law, we kind of went back to the drawing board and said lets really focus in on this. We need to be real sure that we are willing to stand up and say we think that Furman's trustees have the sole right to appoint their successors.

00:45:10

Dr. Tollison: So, this was the first realization that it might be possible that Furman's Board of Trustees might actually have the legal right to become self-perpetuating?

Mr. Smith: That's right, that's right. That's the first realization, and our realization at that point was we've got to really work on this some more. That's a huge, huge change from what we were starting out with. We've got to be real sure of ourselves before we can really go anywhere with this.

PART 4 – 00:45:42

Dr. Tollison: What was the mindset at this point in time in terms of what you could possibly do with it? Had it reached the point of perhaps we could separate, or had it reached the point of wow, this is a pretty powerful bargaining chip?

Mr. Smith: It was neither one. The mindset was amazement. It was like we got all of us in a room, and we brought in what each of us had been doing, and we went around the room and talked about what we were doing, and we all tried to poke at what each other had done. Gradually the realization was there that you know, we're all afraid to really say it, but in point of fact, what we were really saying is it appears that Furman's trustees can self-perpetuate.

Dr. Tollison: Do you remember who actually verbalized that?

Mr. Smith: I can't. I think it may have been Mike Ray, but I'm not positive.

Dr. Tollison: Do you remember the reaction?

Mr. Smith: Yeah, we were all kind of stunned to realize what we were ..., where we were headed. Then I think once we got a little over that feeling of "my gosh, what've we got," then the feeling was ok, we're lawyers. Oh, Jim Drennan is a lawyer, he just never has practiced. I did remember that. He's now in an academic area, but, you know, we said ok, we've got to put our lawyers' hats back on. As lawyers we've got to make sure that we have thoroughly examined this, and we haven't left any stones unturned that could come back to haunt us. So, we, after getting over that initial amazement, what we then said is ok, back to the homework. We've got to make absolutely sure that we've really nailed this thing, that we don't jump to a conclusion that we can't substantiate, and so we did, to some degree, divide up some specific assignments among ourselves at that point, and what I remember is that my assignment was basically to do the historical research to find out if there were any relations, relationships, that were memorialized in writing between the trustees of the University and the South Carolina Baptist Convention. To see if there are agreements in place that may not strictly be matters of corporate law, but if they are in existence then we've got to recognize it and figure out how we're going to deal with it. So, I spent a good bit of time up in, what was at that time, the trustee's meeting room, up in the Administration Building, where they had, at that time, all of the

bound records, minutes of the meetings of the Convention, the minutes of all the trustee's meetings, and it was tedious work. It really was. Interestingly, they did not really end up revealing anything that was going to be, you know, a hurdle for us to then have to deal with.

Dr. Tollison: Anything particularly helpful?

Mr. Smith: There was something that I encountered in the early 1950's that uh ..., it was a reference to something, and I'm trying to remember the circumstances. It didn't come up where you think it would. Something that indicated that they might be looking for an interpretation from the South Carolina Secretary of State as to just what the trustees could and could not do under its charter. Gosh, I cannot remember what it was that brought that on, but something ...

Dr. Tollison: Maybe we could add it later.

Mr. Smith: Yeah, maybe we could.

00:50:13

Dr. Tollison: Are you familiar with Clement Haynsworth's research on the relationship with Furman and the South Carolina Baptist Convention?

Mr. Smith: I'm not sure that I am. Was this around that time, or was it different?

Dr. Tollison: It was the 1960's, I believe.

Mr. Smith: Ok. I may not be. If I am, I don't remember it. What we found is there was actually a written opinion that was given by a Secretary of State back in, I want to say 1954, or thereabouts, that was very interesting and very explicit, that was to the effect that the Baptist Convention did not actually own Furman, and would probably not be considered a member of Furman. It ended up, after making what we thought was a pretty bold statement, and we thought a correct analysis of the law, then he waffled at the end and said that y'all have to work it out with the Baptists. So, he got to the goal line but he didn't cross over the goal line, if you know what I mean?

Dr. Tollison: And there's a relationship here somewhere between the Secretary of State at that point in time in the 1950's and someone that was related in the 1990's with the Baptists Convention?

Mr. Smith: Yes, it was the father of the gentleman who had been the Chairman of the Baptist Convention. It was his father who was the Secretary of State. That's

exactly right.

Dr. Tollison: That's a very interesting coincidence. (laughing)

Mr. Smith: Small world. (laughing) Small world.

Dr. Tollison: Wow.

Mr. Smith: Yep, one in the same. I've forgotten his name, but if you said it I'd say yeah, that's it. But, that's exactly right.

Dr. Tollison: Ok. So, this is your research.

Mr. Smith: Yeah, and so really, mine, you know, in the big picture of what we were trying to do, I think mine didn't give us any reason to feel like we were off base, and in fact, we felt that, by in large, that advisory opinion that the Secretary of State had issued was very favorable in terms of supporting what we were contending now was Furman's position.

Dr. Tollison: Do you remember what other members of the committee, what's some of their responsibilities, their assignments were, and what their discoveries were?

Mr. Smith: I think that Larry may have been the one who analyzed the development of the South Carolina nonprofit statute. I'm pretty sure that that was the area that Larry took. I think that Mike Ray took, I hope I'm right on this, but I think he some way was looking to analyze the similarities, or the dissimilarities, between the Wake Forest scenario and the Furman scenario, because I remember we did contact several university counsels. We contacted the university in-house counsel for Baylor, and got an extensive amount of materials from him. We had Mike's experience, or Womble's experience, in representing Wake Forest that we drew on. It may have been one other school. Is there another one I'm missing? I know Baylor and Wake Forest.

Dr. Tollison: At this point in time I believe just Baylor and Wake Forest. I know Stetson, and Meredith, and Richmond, and um, there was discussions about Mercer, but.

Mr. Smith: Yeah, not quite the same. I guess it was just those two. But I think Mike may have been working on that, but I hate to memorialize that, because I may be remembering wrong.

Dr. Tollison: That's fine. That's fine. So, talk me through the next step of the process.

Mr. Smith: Well the next step was that we got together one more time, I think we were up in Charlotte again, and kind of hashed through what we had found, and tried to crystalize our conclusions, which ultimately was we believe that the University's trustees have the power to appoint their successors, and the Baptist Convention does not possess that power. So, the next question is, ok, well what are we

going to do with this. This is dynamite, and dynamite probably nobody is expecting. This was pretty clever. I think I'll give Neil Rabon probably a pretty good bit of credit, or he and Larry, I think, may have kind of come up with the idea. They met with Dr. Johns, and in fact, let me take it back. Let me back up a step. I think that Mike Ray and Larry, the two of them, sort of as our emissaries from our group, went and met with Dr. Johns and they pretty much laid it out for him, and said we think that this is an avenue that is available, and Dr. Johns apparently blessed their contacting a few selected members of the Board of Trustees. I think he pretty much said here are the ones I think you can talk to about it. Then Neil, probably with Larry, scheduled a meeting of the task force, and we scheduled it over at Larry's office, and we specifically invited Dr. Johns to attend, which he did. Neil and Larry, again, I think were probably the ones to credit with this, but they also arranged for a court reporter to be there and to transcribe everything that occurred in that meeting. This was the task force of all of the different three or four sections of the committee.

00:56:43

Dr. Tollison: And this took place in Larry Estridge's office?

Mr. Smith: Yeah, I want to say it was probably in July. I think they stage managed it very effectively. We had all of the other groups go first, and then we said, you know, now we need to really go in sort of a closed session and everybody needs to respect how very careful we have to be about the next aspect of the report, which is the legal committee, and we kind of had it all set up, and then Mike Ray presented just exactly what our conclusions were, what our recommendations were, and what we believed could happen.

Dr. Tollison: Let me stop you for one second.

Mr. Smith: Yeah.

Dr. Tollison: I want to talk a little more about Dr. Johns.

Mr. Smith: Ok.

Dr. Tollison: You were doing research in the Trustee's Board Room in the President's Suite?

Mr. Smith: Yeah.

Dr. Tollison: So, how aware was Dr. Johns ...

Mr. Smith: Oh, he was aware at that point. I guess we must have talked to him after that

first session, because yeah, he completely blessed it. He said, “call me, and I’ll come on up.” And I did. He showed me around, and said, “if you got any questions come talk to me. I’m just right around the corner.” I mean, he was very, very open about it.

Dr. Tollison: So, he was very supportive of the research effort?

Mr. Smith: Yes.

Dr. Tollison: The preliminary [inaudible].

Mr. Smith: Yeah, that’s right. So, I think that must have happened after we had our initial meeting where we said let’s go research, in fact, I feel sure it did.

Dr. Tollison: After April?

Mr. Smith: Uh, no, after I think ...

Dr. Tollison: Summer?

Mr. Smith: The June meeting ...

Dr. Tollison: Summer. The June meeting.

Mr. Smith: Yeah, the summer meeting.

PART 5 – 00:58:30

Dr. Tollison: And tell me the significance of having Dr. Johns at this meeting, and having the court reporter there. What was the mentality behind why that was necessary?

Mr. Smith: I think that the belief was that we weren’t real sure if Dr. Johns would follow through and do what he indicated that he was receptive to doing, so we kind of wanted to have a full, open meeting, recorded and transcribed, so that if we were going to go forward and stick our necks out for Furman, you know, it didn’t get disavowed later on as being a bunch of rebel rousing alumni. I think that really was what the mindset was. We knew it had to be done carefully, but we also felt like if we’re going to go down this path, we need to be sure that there is commitment within the administration, if we’re going to see this thing through. Of course, he loved the idea of it. He had to battle with them every year, so I think he just was real interested and supportive of the idea, but at the same time he knew that it was, you know, it was a battle line. I think we all came out of that meeting remembering was that, um, [inaudible], but, we had that

meeting, we went through all of that, made the presentation, and then Neil asked Dr. Johns if he would like to say anything, and he leaned back in his chair and said, "Boys, I'm going to tell you one thing, if you're going to shoot at the king, you better kill the son of a bitch." (laughing) Well that said it all right there. (laughing) And with that, we adjourned. What he did, and it may have been at that point, he said go ahead and start talking to the trustees. That's where I'm not really too sure. I think he authorized us to go and talk to some selected trustees, and he also said look, I'm going to get the University's attorney involved, and got us in touch with Tommy Thomason, who at that time was the University's lawyer, and um..., I got to think kind of how all of those things began working at this point.

01:01:15

Dr. Tollison: Sure, sure, take your time.

Mr. Smith: Tommy had gotten a couple of the lawyers at his firm, in response to that, his first reaction was, I'm not so sure about this. This might be a big step. So he got some lawyers with his firm to do some research, and we informally talked with them on a couple of occasions, but I think Tommy, to his credit, eventually came around to the view that we were right, and this was something we could do. In the meantime, I think Larry maybe more than any of the rest of us, Larry, and Mike Ray, and Neil Rabon, were meeting with selected trustees that Dr. Johns had mentioned, to apprise them of what we were looking at doing, and start getting their input, and start beginning to develop the strategy of ok, are we going to do it, and if so, how are we going to do it. I think ..., if I am remembering, I think that the Baptist, no, no, I know what it was. I guess the next selection of trustees was scheduled to occur sometime that Fall, and so what we eventually ..., now at this point "we" is not actually our task force. We is Tommy Thomason, as the University's attorney, and I think primarily Larry and Neil, at that point, and maybe Mike Ray from our group, concluded that the best way, you know, what we were going to have to do is actually seek to file a Charter Amendment. I remember that Larry drafted that Charter Amendment. Tommy blessed it. The amendment essentially was that the trustees, being the members of the University, hereby amend the charter of the University to affirm that they, as the trustees, have the right, you know, however we provided for the succession, or the appointment of successor trustees, and we did it by that. We, kind of informally, and they scheduled the next meeting of the trustees of the University, of which you had to, at that time, give notice of the agenda, and of the items to be considered, so we wrestled with that, but concluded as much as we'd like to keep it quiet until it's a done deal, we don't have that ability, or they don't have that ability. Their bylaws require that this is the way things be handled, and there's just no way around it. So anyway, whatever the minimal

period of notice was, the notice was sent out with the proposed Charter Amendment, and then it was ready for consideration. What we had arranged, they seemed to believe that they would have the requisite votes to pass it.

Dr. Tollison: Mm-hm. Who's they?

Mr. Smith: The uh, well ..., our people who were doing the polling. Probably, the truth, I mean, formally ..., probably, really, it's Dr. Johns, believed that there were probably a sufficient number of votes for it to pass.

01:05:04

Dr. Tollison: It needed two thirds?

Mr. Smith: I think that's what it was. I think that's what it was. Anyway, I just remember, we did contact the Secretary of State just immediately prior to the meeting to advise him, this is coming, and that we expect him to file it. I think he was somewhat noncommittal, but clearly shocked. So anyway, we had, I actually stayed outside of the room while they considered it. They passed it on a sort of interesting afternoon, because people would, every once in a while, leave the room and go back in. I'd say later on several of the trustees were crying. Apparently Alester Furman just made an impassioned speech about his family's history and how it grieved him that it had to come to this, but it's gotten here, we've got to do it. Several of your Baptist ministers who were on the Board made statements that as much as it tore them up to see this happen, their duty as a trustee was to Furman, and this was in Furman's best interest, so, you know, they passed it. So, we couriered it down to Columbia to file it. We took it to the Secretary of State, who received it, but would not file it until he got some directions from the Attorney General, because he said I am not sure they have the authority to do this, and the Attorney General, I think, probably, we had also ..., somebody had already contacted the AG as soon as we did that, and fortunately the AG pretty quickly directed to file it. He said if it's in proper form, and meets all its statutory prerequisites to be filed, your office doesn't have any discretion, you must file it. It's not a judgement of whether it's a correct, from its substance, but it's an administrative act by your office. If it's a proper form, then you are directed by your office to file it. So, we did, and uh, then things really got interesting after that. (laughing)

Dr. Tollison: Tell me how they got interesting.

Mr. Smith: Well, you can imagine, it was a firestorm, absolute firestorm. The Baptist Convention occurred, I think, in November. It was clearly the dominant topic of conversation in front of the convention. Lots of harangues about Furman, and

they had no business doing this. Who do they think they are, and maybe we need to cut off their funding, and get rid of all the rascals, and so forth. Dr. Johns made a pretty darn good presentation to them. He was tough. He was himself. I think a lot of people there respected him for it, whether they agreed with him or not, but ultimately there was a motion..., let's see how it was done. There was a motion, I think, to come up with ..., to appoint ..., I know what it was. It was, I think I know what it was. It was a motion to appoint a committee to negotiate with Furman, and then there was a substitute motion that was introduced, I think [inaudible], and I believe that that substitute motion was to withhold funding, and um ...

Dr. Tollison: Do you recall declaratory judgement?

Mr. Smith: That's what it was. Thank you very much. I'm so glad you're here. Yeah, to seek a declaratory judgement against Furman. That's what it was, and that passed. There were a ..., and that even turned out to be very interesting, because in the weeks after that there was a huge outcry by Baptists who did not agree with what Furman did, but felt that the manner in which the Convention had acted was very contrary to the way Baptists did things. That it was handled ..., it was a very important substantive issue that was defeated, or derailed, on a technicality, which the substitute motion was filed, and the motion was called, and a vote was taken, and there was no full and open discussion about it. So, there was a huge outcry about doing that which then sort of put the Baptist Convention at a bit of a deadlock. So, somewhere along the way, I swear, it's been so long. I'm not doing as good a job as I wish I could on remembering how it all happened.

01:10:30

Dr. Tollison: Oh, you're doing a great job.

Mr. Smith: Well, I don't know, but anyway, we'll keep going.

Dr. Tollison: There will be opportunities for editing. Don't worry. (laughing)

Mr. Smith: (laughing) Good. Hey, this is fun.

Dr. Tollison: Oh absolutely.

Mr. Smith: This is bringing back quite a time. At some point there was some movement to attempt to appoint two committees to negotiate. So, at that point, when that process began to get under way, Tommy Thomason recommended to Dr. Johns that the University hire, not only Tommy, but also Larry, Neil, and myself to

serve as the legal team to advise the University in these negotiations to the eventual outcome. Keep in mind, in the meantime, of course, Furman had then voted in a new set, or its trustees had voted in a new set of trustees.

Dr. Tollison: Only a large representation of people that the Baptist Convention wanted.

Mr. Smith: Yeah, yeah. It was sort of we're going to do it, but these will be ones you would ordinarily be able to live with, so, you know, the door was ..., it was an attempt to keep the door open, because I think there was a lot of sense that we can, members of the Furman community, that we should attempt to find a middle ground that we can all live with. So anyway, we ended up drawing a compromise, which was a rather ..., it was a rather tough document to come up with because everybody was very suspicious of each other, and Furman's main negotiating position was as long as we have a majority that are appointed by us then we'll agree to an arrangement in which the Baptists will appoint a certain number of slotted, or allocated seats on the board. We went through draft after, actually I think I was probably the draftsman of that document, and we went through all sorts of rewrites of it, but ultimately, as is often the case, it was a fundamental disagreement within that as to what could the parties live with. Eventually we got to a point that there was a, probably a watered-down version that our trustees' executive committee approved, and that the negotiating committee of the Baptist Convention, incidentally our executive committee was our negotiating committee for that. I remember there was one, there were a couple of law meetings, but one just interminably long meeting, but we did eventually end up with an agreement that each would go back and recommend it to their bodies, in Furman's case, the Board of Trustees, and in the Baptists' case, the Convention.

Dr. Tollison: And do you remember the specific terms of that agreement in terms of the number of trustees that would be appointed by the Baptist Convention?

Dr. Smith: I don't. I know I drafted it and I should remember, but I don't. I'm sure I've probably got it in the file, but I know it was a majority ..., I think it was a majority in some fashion, because Furman, you know, a lesser number of our ...

PART 6 – 01:14:03

Dr. Tollison: Tell me about the meetings with representatives from the South Carolina Baptist Convention in which you all came to an agreement that this document was somewhat mutually agreeable.

Mr. Smith: Uh..., they were frosty. They were fairly frosty.

Dr. Tollison: Do you remember who you met with?

Mr. Smith: There was an attorney who struck us as a very unusual choice to represent them. He was a tax lawyer, and his name was Roger something, I think it was Roger, who was from Columbia. When I find the file, I'll find his name.

Dr. Tollison: Was Chip Campsen involved in these meetings?

Mr. Smith: I don't remember him being in there.

Dr. Tollison: What about Tim Head?

Mr. Smith: Tim Head was. Yeah, because he was a Furman grad. Yeah, Tim was. I remember him being in there.

Dr. Tollison: Do you remember Martin McWilliams?

Mr. Smith: Yes, although I don't think that he was in the meetings that we were..., that I was involved in. And he was a university professor at South Carolina Law School, and I remember that they shared with us his memorandum saying that we had exceeded our authority, and he's a corporate law professor, so, you know, clearly he was somebody to be reckoned with, but he ..., I don't think that he ever actually participated in any of the face to face meetings, or, as best as I can recall, I don't think he was ever involved with any direct negotiations. We just were made aware of the fact that they had engaged him, and he had analyzed it, and I think that they may have even given us his memorandum.

Dr. Tollison: Did you have him in ..., while you were in law school?

Mr. Smith: I don't think he was there. I think he came to the law school after I finished. I don't believe he was there when I was. Like I say, I don't think he was involved in any of the meetings that I recall.

Dr. Tollison: So, you all went your separate ways after these ..., after one of these meetings, and decided that you all would approach your respective parties with this agreement?

Mr. Smith: Yeah, yeah.

Dr. Tollison: What happened at that point?

Mr. Smith: Uh, it didn't fly. I think the Baptist Convention, as I recall, voted it down, and voted instead to sue us.

Dr. Tollison: Was it truly a compromise among both parties?

Mr. Smith: It was ..., I mean, you know, I say it was. I think it was. I felt like it was at the time, because we, as lawyers, frankly were uncomfortable with the idea that you have a body, that may be adversarial to us, that is going to appoint some of the members of our government body. I think the lawyers of the group really didn't particularly like the idea of the compromise, but we certainly were doing as we were instructed, which was try and find a way that would bridge the gap as long as we ...

Dr. Tollison: Did you get the sense of whether the South Carolina Baptist Convention representatives felt like it was a compromise?

Mr. Smith: Oh yeah, yeah, we felt like they firmly believed that they should maintain a controlling roll as they had historically always had.

Dr. Tollison: And did they feel that they would still have a controlling roll if they were a minority of the board?

Mr. Smith: No, no, they didn't.

Dr. Tollison: So, this was their compromise?

Mr. Smith: Yeah, it was an effort to be able to bring something back to the Convention.

Dr. Tollison: An effort to maintain some relationship.

Mr. Smith: That's right, maintain some relationship.

Dr. Tollison: Ok, so, they voted it down?

Mr. Smith: Yeah.

Dr. Tollison: The South Carolina Baptist Convention voted it down?

Mr. Smith: Yeah.

Dr. Tollison: And um ...

Mr. Smith: And they also voted to cut off our funding.

Dr. Tollison: And this is the way that the funding got stripped?

Mr. Smith: Yeah, yeah, that's exactly right.

Dr. Tollison: Talk me through the next several steps.

Mr. Smith: Alright, um ..., I guess that would have been in 1991.

Dr. Tollison: Because they ..., the South Carolina Baptist Convention voted it down that year in November.

Mr. Smith: Yeah.

Dr. Tollison: And, were you at that meeting?

Mr. Smith: I was at the, I was there at the time that they took the vote. I didn't attend most of it. Neil may have been the one that called and said, you know, it looks like things have come, may come to a vote, and whatever the issues are, we'd like to sit in, and so we did. I was there, [inaudible] not too involved, just sat at the back and was just astonished.

Dr. Tollison: Were you a voting member?

Mr. Smith: No, no, I was not. I was a ..., I was a fox in the henhouse. (laughing)

Dr. Tollison: (laughing) We can talk more about First Baptist Church, and that, later. Ok, so this is November of ninety-one?

Mr. Smith: Yeah.

Dr. Tollison: Ok, so what happens then?

Mr. Smith: Uh, that's what I'm trying to remember. I know ...

Dr. Tollison: Did Dr. Johns tell you about his reaction? Did you all genuinely feel that this would pass, this compromise?

Mr. Smith: I had no idea if it would, because that really was very much up to the Convention. The trustees were willing to do it. I had no idea what to expect. I mean maybe some of our group did, I really didn't, as to what to expect from the Convention. We were about to go to war, you know, they withheld the money that had been pledged to us, and they said they're going to sue us, and so the next step is see you in court. I am trying to remember how it led to the compromise. Things were finalized, the man had never been to a board meeting. That's one of your trustees. Another one where the trustee appointed was a housewife who stated on her initial introduction, at the first board meeting, she admitted, I don't know why I'm here. So, we had some of this caliber of trustee coming on to the board. We had Oliver Nealy, I shouldn't say nothing ..., nice man, Clerk of Court for Pickens County, but has a GED, which doesn't necessarily mean he's inadequate, but I'm not sure that that's necessarily the right person that Furman would normally look to, to serve on the board, so, um, you know, it just seemed that the Convention had an agenda rather than the interests of Furman at heart, and we were getting the caliber of trustee as a whole, that would make it very difficult to operate this school in a few years in the way that we all affirmatively believe that it should be. So, I think

most of the alumni who thought about it enough were very much of the belief that this was necessary, even though in many cases they felt it was unfortunate. When I was there, certainly years before that, there were a lot of students who were able to attend Furman solely because of the support of the Convention. I always remember that there were just some really great people who came, who were South Carolina Baptists from rural areas of the state of South Carolina, who, at that time, probably would never have had the chance to get this quality of education, but who were eminently able to thrive and to perform, and I know there was that sense of loss that this will probably be history afterwards. But there was also a little bit of concern, at least, as to whether these people are likely to be against it, or for it, but I think most ..., again to generalize, I suspect most of them felt the same as a lot of people did, it's necessary, it's unfortunate.

01:22:22

Dr. Tollison: Would it be accurate to say that you got the ..., the majority sense was one of reluctant support?

Mr. Smith: No, I don't think so.

Dr. Tollison: What's the term?

Mr. Smith: I think that a lot of, well, again, I don't know how much I can really categorize the alumni as a whole.

Dr. Tollison: Right.

Mr. Smith: We were out in the vanguard in making it happen, and very involved in all of the details and everything about it, so I think the people we were likely to be talking to, or hearing from, were by in large enthusiastic supporters of what was going on

Dr. Tollison: And given your position, some people might not have been ..., so there's probably a million shades of grey here.

Mr. Smith: Yeah, I think that's exactly right. What I heard, by in large, was enthusiastic support, and uh, we'll find a way to make up the money. In the long run we'll be so much better off by having done it, on and on and on.

Dr. Tollison: Did you get the impression that a majority of alumni thought that perhaps the amount of money that the South Carolina Baptist Convention sent to Furman each year was a much larger percentage of the annual operating budget?

Mr. Smith: Yeah, yeah. I think that most people just assumed without ever having thought about it, that it probably was.

Dr. Tollison: That is was a highly significant. I mean it's all significant, but it was a highly significant percentage.

Mr. Smith: Yeah, as I remember, the actual number was something like four percent, which is big, but in the big picture, there's another ninety-six percent that didn't come from the convention. I remember the Executive Committee, and Dr. Johns, commenting on many occasions, we can make it without it. We are not going to be going down the tubes. It will be a hit, and we are really going to have to be careful about where we invest our available assets until we have a source that will compensate for the loss of this money, but we can make it. So, I think probably a lot of alumni assumed it was far greater a percentage than it was, but it's still, at the same time, it was still significant.

Dr. Tollison: So, the vote came in May of ninety-two.

Mr. Smith: Yeah.

Dr. Tollison: And tell me about the reaction amongst ..., your reaction, your personal reaction, and any other reactions you observed among the people you had been working with.

01:24:56

Mr. Smith: Well, it was a real interesting process. We went down, you know, a group of us went down and attended..., the fox in the henhouse, but we attended the meeting. It was at the fairground in Columbia, as I recall.

Dr. Tollison: It was a special convention?

Mr. Smith: Yeah. We had worked out all of this stuff we were going to do depending on what happened. We had gotten a bunch of the walkie-talkies, and we were positioned in different spaces around the place so that if a problem started arising we could be in touch to strategize. It sounds like a political convention, and I guess it almost was in that sense. We had Neil Rabon, and two or three other people prepared to get up and make remarks, or seems like Neil was either..., going to call to question at some point if he felt like things were headed in the wrong direction. So, we tried to have a plan to deal with the unexpected. Turns out, it was not a long meeting. There were a handful of people who stood up. I remember one man, in particular, who got up and said that he was a recovering alcoholic, and he didn't really know a whole lot about this, but these

were all Christians here, and as Christians we should really be focusing on our ministry, and we don't need a divisive issue, and we wish Furman nothing but the best, but let's get back to what we're about, and that's being ministers of the Word. And it was kind of neat. He was a nobody, basically, who had something to say, and he said it very eloquently, and they gave him a nice ovation, and that just sort of set the tone.

Dr. Tollison: So, there's a lot of people...

Mr. Smith: Because he was saying, basically, I don't have a dog in this fight. I think we go on.

Dr. Tollison: Alright, so sort of the neutral delegates felt like this has been entirely too much of a distraction from their fundamental purpose.

Mr. Smith: Exactly, exactly. I think that you had the militant conservative wing of the Convention, in fact, co-opted by Mike Hamlin's group, who were pushing this break, and I think that by that point the steam had pretty much gone out of the whole idea of suing Furman, and it was overwhelmingly passed. It was not a terribly long meeting.

Dr. Tollison: But highly..., I mean...

Mr. Smith: Very emotional.

Dr. Tollison: A lot of people there.

Mr. Smith: A lot of people there. A lot of people there. And as I say, it was very overwhelmingly passed. There wasn't much doubt about it.

Dr. Tollison: So, you all were all there.

Mr. Smith: We were.

Dr. Tollison: Tell me about the reaction immediately after the gavel came down.

Mr. Smith: Oh we were not jubilant (laughing), you know, you didn't want to be jumping up and down. That wouldn't be seemly. We didn't want to be "yah yah yah," you know, we're so glad to be rid of you sort of thing, so, it was kind of muted. But as I recall, we had somebody to arrange some spot over near the fairgrounds, some restaurant, or something, where we reserved a room upstairs, and we all met afterwards, and patted on the back, and congratulated, but we didn't offer drinks (laughing). It was just sort of a, you know, we're glad we're here. We're glad it's done, and we can go on, and they can go on, so it was sort of a ..., not a jubilation, but we were just very pleased and relieved that it was finally concluded. Furman could go it's on way, as we had set the thing up to do.

Dr. Tollison: Were you all, at this point and time, aware of the significance of this act?

Mr. Smith: Oh gosh, yeah, you better believe it. We were very aware of that. Yeah..., it was..., I think that I felt that this was going to be one of the handful of seminal events in the University's history, right up there along with the Duke Endowment, right along with the move to the new campus, you know, those are the two that immediately come to mind. In my mind, this was comparable to those two. It was one of those things that would insure that the University would continue to go on to greatness. If it had not been done, I don't think we would have any resemblance today to what we have had before that stuff came up, and I really believe that. And I think I believed that at the time. I think we all knew that this is..., this is vital.

Dr. Tollison: Let's back up a little bit and we can go back to the mindset of the, you know, pre-vote days, in terms of what were your concerns, or other concerns or voices, in terms of some of the short-term consequences of this action, um, long-term consequences of this action, and also immediate concerns, long-term concerns, this kind of thing.

01:30:17

Mr. Smith: Immediate consequences were never, quite honestly, a huge issue. Immediate consequences were financial. The money is in escrow, potential donors are going to be reluctant to continue donating significant dollars to the university as long as the governance issue is unresolved. So, the immediate issue was pure and simple, money. I really think that that's about the extent of the immediate issue. The big long-term issue was this is the guts of the university. This is the governance issue. Is it going to be going down the road of the fundamentalist Baptist revolution, and we're going to become a seminary, or a university in which we're told to teach the Bible, and to teach the Bible in a certain way, that's our mission in life, or are we going to remain and grow as an institution of liberal thinking, you know. The very school that we are now at. And I don't think there was any doubt that we knew all along in that process, that's what this is all about. It is a vital issue, and that's just it, and I think that was always forefront in everybody's mind.

PART 7 – 01:31:41

Dr. Tollison: Was there ever a concern, or ever a time, that you thought this whole thing

might completely backfire?

Mr. Smith: You always have to think that if you're being threatened with a lawsuit, because what you're doing is that you are...

Dr. Tollison: That has to be your approach...

Mr. Smith: Oh yeah, it has to be.

Dr. Tollison: To come up with your defensive stance.

Mr. Smith: Yeah, absolutely. We figured that this was a case, if it had been brought, in that fashion, that would end up, probably sooner rather than later, in the state supreme court. That's where it ultimately would be resolved. We knew that we felt good about our legal position, but we knew that it was not a slam dunk. We knew that there was Martin McWilliams out there, who is a very respected professor in that area of the law, who had given the Baptists the opinion that they would prevail if it ended up getting litigated. We also knew that there's not a sole state supreme court that does not already have some perception of Furman, and some perception of the Baptist Convention, and you can talk all you want to about judicial impartiality, but they're going to have their own perceptions, voiced or unvoiced, about both sides of this issue, and about what was done, and how it was done. You like to think the judges always hear the case and make decisions on the facts and on the law, but at the same time you know that you can't rule out the fact that there may be some very strong perceptions out there that will affect that. So, were we concerned? Darn right we were. It was scary. We felt at one level, we led the university down to this path, and if we're wrong, it's dead. Maybe not dead, but the university that we have known will be dead. Now, what would've happened if we hadn't led them down the path, well, they'd probably be dead. But nevertheless, it's a huge feeling of responsibility, saying we've got to be right. We can't afford not to be right. You know, whenever you're having it decided ultimately by a third party, you can't know for certain until you get that decision.

Dr. Tollison: You all thought that you didn't have a choice either way? It's just a thing that you have to do because that if you took no action, the result was largely to be the same, whether you lost or whether you took no action?

Mr. Smith: Yeah, well you know, and there were different rolls in that. As an alumni task force, sure we could've walked away from it. Somebody could've said nah, we're not going to do it, y'all go about your business, we're running this university. We probably would have. I'd hope not, but we probably would have. Once we were hired as lawyers for the university, we had a client, and our job is to represent the client to the best of our ability. Now it happens to be a client that we feel personally a tremendous sense of responsibility to make sure that we in fact do that. Give them the best possible representation.

01:35:00

Dr. Tollison: Did you ever feel that your personal relationship with Furman jaded your perspective, because you're coming at this from..., you have an idea about what, about the kind of university you want Furman to end up being? You have an idea about the kind of relationship that needs to happen with the Baptists to insure this, so you're coming at it from a mindset before you ever even start to look at the legal aspects of it, so, there's a bias here.

Mr. Smith: Sure. Sure.

Dr. Tollison: Did you ever feel like, wow, perhaps we ought to bring in some entirely neutral..., and I understand that we did have some. You had some people from..., that had represented previously for us, so, these kind of people, but...

Mr. Smith: But nobody directly on our team...

Dr. Tollison: Right...

Mr. Smith: That was external.

Dr. Tollison: Mmhmm. Or were you all pretty confident?

Mr. Smith: We..., the point at which we would've been more concerned about that was when we were doing our early spadework within our task force, and when we all had that epiphany that we just looked at each other and said, you know, we think we really can do this.

Dr. Tollison: Right. Is this something that we want to believe, or are we really seeing this.

Mr. Smith: Yeah, that's right. That's the point at which we stepped back and we said, you know, we're lawyers, and we've got to look at this as lawyers would look it, and we've got to be darn certain that we feel that we can substantiate what we are claiming here, and are prepared to take it through an adjudication at the state supreme court, which we knew if it went to that, that's where it would end up. So, we made the decision, I guess, I don't think we really talked about it in so many words, but our sense was that was a watershed, that we could either go outside, or we could go back in and do the work that we as lawyers would have to do in order to get us to that point. So, later on, you know, we could have always at some point have elected [illegible] to see if we could bring in somebody to participate on the team, or even to lead the team, who was unconnected to the university, who was truly independent, but I don't think we ever seriously considered that. In part, it's going to be very hard, as I said,

anywhere in the state of South Carolina, to find somebody who really is truly devoid of any belief, or connection, or perception, of either Baptists in South Carolina as a whole, or Furman University. We're pretty pervasive. You know it's sort of like trying to find a football fan who doesn't have any feeling whatsoever about Carolina versus Clemson. You know, you may not be a partisan, but you probably got some feelings about it. So, my sense was that yeah in theory that would be an important consideration, but in the real world, you know we don't really, we felt like it would be a very bad idea. No, I shouldn't say that. I can't say we felt. My feeling, now that you raised the question, would've been, and I bet the guys on the task force would conquer, it would be a mistake to try to go through a process to get a lawyer from out of state to take the lead. That I think would send a signal that is much worse than the fact that we're biased towards our client. There would be some legal hurdles you would have to go through, but even if you got through those hurdles, I think that it would send a real mistake if Furman's hopes were placed on the shoulders of somebody from another state who knew nothing about either Furman or Baptists. We just didn't think that would get us anywhere. I think they would say the same thing.

Dr. Tollison: Did you know Tim Head at Furman?

Mr. Smith: Yeah, I did. I did. He was, I think, one year ahead of me. Nice guy, and I believe, if I'm remembering, Tim went to law school, in fact I think he may have been in law school when I was, and then didn't he go into the ministry?

Dr. Tollison: Mmhmm.

Mr. Smith: Yeah, that's what I thought. I think he had gone into the ministry by the time all of this had occurred.

Dr. Tollison: So, you don't have much of a memory of him?

Mr. Smith: Not a great deal. He, I think that he married ..., did he marry Julie [illegible]? I'm not sure. I may be mixing him up with somebody else.

Dr. Tollison: Yes, his wife's name is Julie, I believe.

Mr. Smith: Then that would be right. She was a year younger than me at Furman. I knew both of them. I don't think they were dating when we were at Furman, at least I don't remember that.

Dr. Tollison: Mmhmm, but you don't remember him being part of this process?

Mr. Smith: I think he was on the Negotiating Committee that the Convention had. I just don't remember much about any involvement that Tim might have had. He may have been very active. I just don't remember. I mostly remember Roger, what's his face, the tax lawyer, who really would never allow us to draw him into any dialogue about the merits of what either side said. He really didn't want to

negotiate, or didn't want to repartee, if you will, in an open session. He just, you know, he was very stonewalling, in terms of really dialoging with each other about what's ..., I think we said, show us yours, we'll show you ours. We'll talk about it. Let's talk about it. Why don't you convince us as to why you're right and we're wrong, and we'll be glad to try to do the same. He wouldn't do any of that. He did not want to have those discussions. So, we really got nowhere in terms of any of those discussions with him. It was just..., it was odd. It was like, I'll report what you say back to my client. That's about what he would say. That's about as far as he would ever go, so, it was somewhat frustrating, because we felt like the informal channels are sometimes very effective, but that one led nowhere. And I imagine he probably had Tim Head, and part of that group, that was working with him, formulating what their positions were going to be.

01:41:38

Dr. Tollison: So, looking back on this, it's been twelve and a half years or so now, looking back on this experience, what kind of perspective do you have on it now, and how has this perspective changed, or evolved, over the past twelve and a half years?

Mr. Smith: Well I think the one obvious perspective is it was successful, and it has accomplished what needed to be accomplished. The school is stronger, more diverse, and more focused, than I think it's ever been, and more successful. We've got a dynamic president. We've got a foundation..., not a foundation, but an endowment that's blossomed. By, I think, almost any measure, we have a more diverse, capable, student body than ever, a more highly qualified faculty than ever. I think that there's a great deal that has gone right, and I won't say it's because of that, but I think I can safely say it would not have happened if this had not occurred, so, it's the but for thing, uh, but for this occurring, you wouldn't see the Furman that we now have. So, my perspective is, you darn right, it was a great thing, and I'm proud to have been a part of it.

Dr. Tollison: Right. So, you're very pleased in, throughout the approach, this is what we did this for, so Furman could become what it is becoming?

Mr. Smith: Oh yeah, you know, I've said this to a lot of people over many years when the topic has come up, which it doesn't come up as much now as it used to, but I think it still holds true, most of what I do in my career is work for a specific client doing a specific thing, and I like to think that I do it well, and that the client is very pleased, in most cases, with the work that they get, and when we conclude the engagement, and I've got a lot of ongoing clients, and of course there are ongoing things that I do. It's been very gratifying, and it's been a good career.

I've enjoyed it. But, I know of no other thing that I have done in my career that remotely compares to the impact that the legal work that I performed for Furman's case has had. I don't say me alone because it was me and a half dozen other lawyers, but without qualification, it is the one thing in my career that I'm most proud of, because I think I contributed to making a huge difference for something that I feel very deeply about. So, that's it in a nutshell.

Dr. Tollison: Let's..., do you have anything else to say about that?

Mr. Smith: (laughing) Oh God, is that possible?

Dr. Tollison: (laughing) Well...

Mr. Smith: (laughing) I may be brain dead, no, I don't think so. You know, I'm sure I could talk about lots of people, and the process, and you could probably prompt me, and I would remember a number of other things.

Dr. Tollison: Would you like to take a break? I just have a few more question.

Mr. Smith: Yeah, let's take a break.

Dr. Tollison: Ok.

Mr. Smith: We might both be ready for that. Would like some more coffee, or a cola?

Dr. Tollison: That would be great.

01:45:11

Dr. Tollison: Ok, you were going to tell me a little more about the Alumni Committee?

Mr. Smith: Yes. After all of it was said and done, and the power of the University's trustees to appoint their successors was then final, we knew that the trustees were then going to be looking at the issues of well now how do we go about selecting the criteria for the people that we're going to appoint as our successors. We knew that there was going to be a process in which they had to go through, the decision-making role of how do we analyze, where do we look for trustees, and so forth, and so on. So, I think it may have been Dave Ellison, by that point, that the Alumni Association felt that we as alumni are one of the key constituencies of the University, and we would like to have some input into the process, and we feel that maybe we've earned some input into the process. So, there was another committee that was formed to analyze the process of selecting trustees, and to make recommendations to the Alumni Association, who in turn

could make recommendations to the University's board about alumni participation, or alumni roll, in that process, and so I was asked to serve on that committee. Dr. Blackwell was on the committee. John Peters out of..., somewhere in the legislature, but John Peters, I think, chaired it, and we had a couple of other people who served on that initial committee as well. It was an interesting process. We looked again at historical precedence, there were what would be an appropriate role for the alumni to perform in that process, and we concluded that we didn't think that it was appropriate that the Alumni Association either demand, or even ask for, a specific seat on the board. That that was not the way that Furman, in our view, ought to go. We really..., the University shouldn't be..., it's Board shouldn't be composed of particular constituencies. There shouldn't be a Baptist seat. There shouldn't be an alumni seat. There shouldn't be a student seat. Everybody needs to be focused on the broad view of what can we bring to the table that will insure that the University's..., the University is best served by the people who are elected to perform that role. So, our conclusion was that no, we shouldn't ask for, shouldn't demand a seat, but we should have some input into the process. The end result of that process is we put together a very, I think, well thought out document. I was the author of it, again, so I'll make that qualification, that I think I distilled the wisdom of the committee, but we made what I felt was a very logical, and hopefully persuasive argument that there is a role that we should perform, and then we went so far as from there to then designate a slate from among which we would ask the trustees to consider appointing to the Board. Of that first slate we sent them five or six names, and two of them were selected to be on the very first slate of new trustees the Board appointed, which we took to be a very good sign, and hopefully one that means either they were already thinking of these individuals, had them picked out, or they listened to what we had to say.

