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Series Editor: Elizabeth Haluska-Rausch

John J. Sampson

An Oral History Interview

INTERVIEWED BY

Megan M. Blair

AUSTIN, TEXAS
Jamail Center for Legal Research
The University of Texas at Austin
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Introduction To The Tarlton Law Library Oral History Series

by Barbara A. Bintliff
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The spoken word is history's most fragile evidence, and its most evanescent witness. Through its recorded perspectives and insights, oral history illuminates, supplements, and adds new details to the material, the tangible, record.[1]

In 1986, the Tarlton Law Library began the process of conducting and publishing oral histories of individuals who played significant roles in the history of Texas law and at The University of Texas School of Law. Originally funded with a grant from the Texas Sesquicentennial Commission, the oral histories are now supported by the University of Texas Law School Foundation and by sales of the printed transcripts.

The series continues to feature interviews with outstanding alumni and faculty of The University of Texas School of Law. Their recollections on the growth of the Law School and on the major legal and political developments in the State of Texas of the past half-century provide valuable first-hand testimony for historians and others. Their stories provide a rich context to the history they have witnessed and affected, and bring to life occasions and events that might otherwise be forgotten. We appreciate the contributions of all those interviewed in the Oral History Series, and are grateful they agreed to spend the time to record their memories.

Oral history requires a considerable investment of time and skill.

1. Chet Orloff & Yvette Berthel, "The Spoken Word: Oral History in the Ninth Circuit," Western Legal History 1:2 (Summer/Fall 1988), 271.

The interviewer first conducts extensive research on the interviewee's life and times, prepares an outline for the interview, and selects a set of questions designed to put the interviewee at ease and to assist the interviewee in recalling past events accurately and meaningfully. The interview usually takes several hours, at least, and the interviewee is given great latitude in the direction the conversation takes, while always steered by the interviewer. This results in a unique record that reflects the skill of the interviewer and the contributions of the interviewee in his or her own words. The recorded interview is then transcribed and proofed by both interviewer and interviewee for accuracy.

Conducting oral histories entails obligations of preserving the interviews and making them available to the public. The Law Library publishes print copies of the interview transcripts for most of its oral histories, although selected interview transcripts are published only online. Copies of all printed oral histories may be ordered through the Law Library's publications webpage. In time, audio files, video excerpts, and transcripts will be available online.

Reading the interview transcripts, and hearing and viewing the oral history interviews, should deepen the appreciation of the contributions these outstanding individuals have made to the development of the law and the legal profession, and to the legal educational system, of the State of Texas. Future generations will reap the benefits of this time well spent.

November 2013

INTERVIEW HISTORY

Interviewer:
Megan M. Blair

Date of interview:
March 21, 2013
April 1, 2013

Photograph:
Wyatt McSpadden

Series Editor:
Elizabeth Haluska-Rausch

This is Megan M. Blair and I'm here today to take an oral history of John "Jack" Sampson, William Benjamin Wynne Professor in Law at the University of Texas School of Law.

MB: I'd like to start a little bit with your background. Can you tell me a little bit about where you were born and a little bit about your family?

JS: I am of 100 percent Swedish heritage. All of my grandparents came from Sweden. Both of my parents were born in the United States so I'm second generation. I do not speak Swedish. My parents could not communicate to each other in Swedish. They both claimed to be able to speak it but their dialects were so different, I guess, that they couldn't talk to each other. I was born and raised in Minnesota and very much an assimilated American. The family left Sweden behind for a good reason—it was cold and rocky. So they sought out another place that's cold and rocky, Minnesota, and decided well, even though they didn't want to be in Sweden they did want to be in a cold, rocky place and moved to Minnesota.

I was born in St. Paul and I grew up outside of St. Paul in a rural area. My father was a businessman who had a business operating out of our home and so needed to live between St. Paul and Minneapolis. The reason that we lived there was that there was no telephone toll. He was concerned that he would lose business because the people from Minneapolis would have to pay a nickel to call St. Paul and he thought that customers might not call him because of that. The result of which was I started with a two-room school house, four grades in a room. When I got to the fourth grade the area had grown enough that we added a room, a 50 percent expansion, so that we had three rooms set up for the eight grades. By the time I finished the seventh grade, the three classrooms had gotten so crowded that I was, I guess I could call it, a victim of early busing. I had to be bused into the city for the

eighth grade and then for the high school as there was no high school in the area. I graduated from high school and went immediately to the University of Minnesota, which in Minnesota is called "The U." And so if you go to "The U" that means you're at the Minneapolis campus of the University of Minnesota. I was there for four years and the last two were in the Business School. I got a B.BA., and then I went off to work.

I went to work in East Chicago, Indiana, for Inland Steel Company in a training program. There were 11 males to be trainees in the training program for management positions that had been formed by a President of the Inland Steel Company to recruit people with college degrees to work in the steel industry and particularly in the steel mill itself. It turned out that that didn't work out very well because most everybody wanted to work in a white collar context. I, and the three engineers out of the 11, chose to go to the mill. The three engineers went to a special program, and I went just to a regular rolling mill making small steel out of bigger pieces. You'd take a big hunk of steel and you'd heat it up and you squeeze it down and you wind up with sheet steel, or where I worked it was called merchant bars, that is concrete reinforcing bars the ones most people know that's also rounds, hexagons, all sorts of things. I worked there for over five years in a supervisory role after a little more training. I wound up as a shift foreman in the ten and fourteen-inch merchant bar mills. At the end of that time I decided that the steel industry wasn't for me. I wanted to be a lawyer and I went to law school.

Two weeks before I started law school, I got married[1] and then I did three years in law school.[2] The second two years in law

1. Joyce and Jack Sampson married on Friday, September 13, 1963. An omen, the date proved to be quite favorable, as illustrated by its 50th Anniversary, September 13, 2013, also a Friday. [Footnote added at the request of the intervewee.]

2. Professor Sampson graduated with an L.LB. in 1966, and the marriage produced two daughters, Maragaret a lawyer, and Elanor, computer science. Margaret has three children, Ricky 11, Devon 8, and John 5. [Footnote added at the request of the intervewee.]

school I had the ace in the hole that all law students are very best advised to have and that is a working spouse. She was still in school for the first year, but then she got a teaching job. We lived very high on the hog with a full-time employee and me being supported by my wife and her teaching salary. That brings me up to graduating from law school.

MB: You graduated in 1966 with your LL.B. What did you do after you graduated?

JS: Well one thing I did, I kept my LL.B. I did not send in the $25 to change the degree that I earned into something that I hadn't earned, that is a J.D. I like having an LL.B because people think it's a super degree rather than just an ordinary J.D. People, I guess, probably think it's some kind of advanced degree and, of course, it's a Bachelor of Law. A J.D. claims to be a Juris Doctor, as if a law degree was equivalent of a Ph.D., which couldn't be further from the truth in my view. Since I have a daughter who's a Ph.D.-J.D., I think she would be a good witness that a Ph.D. is one thing and a J.D. is quite another. Anyway, yes, I did graduate. I was president of the *Minnesota Law Review* in Volume 50. So it tells you, if you look at it where the *University of Minnesota Law Review* is now, I think they're either at a hundred or about a hundred[3] because I graduated a long time ago, in 1966, so going to be very close to 50 years or will be coming up soon.

MB: Did you join a law firm after you graduated?

JS: Yes. When I was walking through the snow as a second year student, and, of course, I was on the *Law Review* as a second year student, I didn't know that I was going to be president, but I did know that I was on the *Law Review* and I was writing a note which

3. As of May 2013, the *Minnesota Law Review* is at issue 97.

was going to be published and so forth. Walking through the snow to school because all of the transportation was shut down because the snow was deep enough that cars were not making much progress and the street cars were shut down, it came to me in a flash of inspiration that I didn't have to put up with this the rest of my life. It's almost like the sky opened and I was reminded of what one of the guys in the steel mill had told me about my working in the steel mill. The advice was as follows: I know this is on tape, but he told me that I was probably the biggest dumbass he had met in some time and I said Cecil, why is that? Why do you say that? He said well you did the dumbest thing a man can do. What's that, Cecil? He said well, you got a job and you went to where the job was instead of finding where you wanted to live and then go there and find a job there. That advice came back to me and I said you know, what I need to do is find a place that isn't Minnesota and find a job there, which I did.

I found a job with Morrison Foerster, then called Morrison, Foerster, Holloway, Clinton & Clark, a law firm in San Francisco. When I made the letterhead I was the 29th person down and Morrison Foerster has I think in excess of a thousand lawyers now.[4] I was there a few years and then I got restive. I was practicing labor law and I didn't like practicing labor law because it was too erratic. It was too like a fireman's job. Either it's an emergency, everything's going on, you're falling down, you have to work 26 hours in each and every day or nothing's happening. I didn't like the nothing happening part of it. I didn't mind the emergency and the craziness, but I did not like having nothing to do, and trying to fill time without really much purpose.

I got to thinking that I'd like to teach. I contacted the dean of my law school in Minnesota and he had a job that he offered me. He said it was a bad time to look for a teaching job because it was the

4. According to the Morrison Foerster website [accessed July 1, 2013], they have more than 1,000 lawyers in 16 offices.

middle of the spring or end of spring and all the recruiting was done in the fall so why didn't I come work for him in Washington, DC, in a commission that he had which would be more educational, more interesting than doing another year or year and a half at Morrison doing labor law when I would learn a whole new trade. The whole new trade I learned was with the US Obscenity and Pornography Commission.[5] My wife [Joyce] and I packed up and moved to Washington, DC, for 15 months. During that time I spent about a third of the time on the road dealing with various members of the various media that were involved in the study of obscenity and pornography and then wrote a book as one of the products of the commission.[6]

Then I found a job and the job I found was the University of Texas Law School. And here I am 43 years later.

MB: Were you contacted by the Law School? How did you know there was an opening?

JS: The Law School then, and now, has a recruiting session. The way it used to be, the paperwork that was put together was called the Stud Book. The Law School annual conference is just after New Year's. It seemed to me that it used to be between Christmas and New Year's. In those days they usually went to Chicago in the wintertime for a conference, which is a pretty bad idea.

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5. The President's Commission on Obscenity and Pornography was established by Congress in October 1967 under Public Law 90-100 (81 Stat. 253). In January 1968, President Lyndon Baines Johnson appointed eighteen members of this Commission. The following year, President Richard Nixon appointed an additional committee member. The Commission was charged with the responsibility of studying the relationship of obscene and pornographic materials to anti-social behavior and determining whether a need existed for more effective methods to control the transmission of such materials. The chair of the commission was William B. Lockhart, Dean of the University of Minnesota Law School. The commission was terminated in 1970 after releasing their final report. [Information adapted from http://www.nixonlibrary.gov/forresearchers/find/textual/central/subject/FG95.php, accessed on July 13, 2013.]

6. Technical Report of the Commission on Obscenity and Pornography. US Commission on Obscenity and Pornography. Washington, GPO, 1970.

Anyway, I went to the conference and was interviewed at the conference and offered a job, well, offered an opportunity to come to Texas to talk about getting hired. I got an offer and called my wife, I was still at the Commission, and I told her that I had an offer and that they had invited us down to Austin. She was a little bit leery because she had seen all those John Wayne movies and thought that Texas looked like Monument Valley. I said well, no, I don't think so. I think it's well east of that. She and I came down and we fell for Austin, although Austin then and Austin now is two different things. We got here in 1970 and the 1970 census was 238,000.[7] At Lamar and Koenig Lane was a drive-in movie theater which marked the outskirts of town. That's where you have the drive-in movie theaters is where the land is more or less free. So that was Austin then.

MB: Who did the interviewing at the conference?

JS: Well, Dean Keeton and a bunch of guys who I can't remember. The person that contacted me and offered me to come to visit was Dean Keeton. I guess it was Dean Keeton that hired me and Dean Keeton who, I don't want to say tricked me, that would be a little bit unfair because he knew what he wanted and I knew what I wanted. I wanted to teach labor law and to be a halftime clinician. I had not taken a clinic at law school and sort of regretted it because I did some pro bono work in San Francisco when I was practicing law at Morrison and I thought a big missing part of the law school education was something that would acquaint the law student with some practical aspects of the practice of law. I thought that I would like to do some of that as well as teach labor law, which I had been practicing exclusively. I didn't mention before, but my business degree was a BBA with emphasis on industrial relations. I had focused on that and then I worked in the corporate world, not in

7. In 1970, the Austin population was 251,808. [According to http://www.census.gov/population/www/documentation/twps0027/tab20.txt]

the corporate office, but in the steel mill itself. Nonetheless insofar as labor law was concerned, I had spent many summers, half a dozen summers, working in construction as a member of the union and then another half dozen years, five years, as a supervisor in a steel mill with the United Steel Workers. Indeed I had been locked inside of the mill in the 1959 strike that lasted 112 days. As a supervisor, I was locked inside to work in the coke plant. I had a pretty good understanding of labor law from both being a member of a union and dealing with unions as a supervisor of union members. Then I also had this background in the B school.

I thought that I had a pretty good background to teach labor law and Dean Keeton said they didn't have any slots. They had a long-term professor, Jerre Williams who ultimately wound up on the 5th Circuit.[8] He taught labor law. He had another, George Schatzki, who taught labor law and George wound up being dean in two or three different schools.[9] He was well fixed with labor law professors, and didn't need any more. What he needed was somebody to teach family law and I was going to teach halftime clinic and halftime something else. My first year I taught family law on Dean Keeton's representation that there's a lot of family law in the Legal Aid Clinic that I had, and that many of the people who were eligible for free legal services through this Legal Aid Clinic would have family law problems so I should teach it to acquaint myself with the area. And, well, we'd see when and if a slot might open up in the future for labor law. Time passed and I also taught Administrative Law, the

8. A judge on the US 5th Circuit Court of Appeals (1980-1993) and a professor of law at the University of Texas at Austin (1946-1980), Jerre S. Williams (1916-1993) also served 30 years as a labor and commercial arbitrator with the American Arbitration Association and the National Academy of Arbitrators and served on the Academy's Board of Governors and as vice-president.

9. In 1965, George Schatzki joined the law faculty at the University of Texas, remaining until 1979 when he became the Dean of the University of Washington School of Law. He also served as dean at the University of Connecticut School of Law.

most awful subject ever. I went down that road and here I am, again, 43 years later, pure labor law gone, pure family law overwhelming. Almost all of my career was devoted to family law issues. The only other course that I teach that has any pizzazz is every other year I teach a seminar on legislative process. The requisite or prerequisite for enrollment in the seminar is to be employed at the Texas Legislature. I've been doing that now every other year since 1971. I think we're at the 22nd biennial offering of the legislative process seminar.

One course that I taught for all those years, now it's called Texas Marital Relations and Divorce, was teaching in effect a very parochial or at least a very Texas-oriented family law course. I did at least one thing that was different or unusual after, oh, I don't know how many times I taught family law as a normal course out of a case book. I got very dissatisfied with that and with a blue Book writing questions about family law in the context of an answer to this question about the basic issues of what might be divorce, might be custody, might be domestic violence, might be a wide variety of subjects that you might want to cover in a family law course.

I decided that because this is a state school and most of the students stay in Texas and those who practice will be practicing Texas law I would concentrate on what I was interested in—in a drafting context for my own interest in outside activities. I would concentrate on Texas law, Texas divorce cases, and Texas divorce cases with custody and child support as issues to settle the case. That's the way I started teaching it. Once I started teaching it that way, it led pretty quickly to the idea that blue book questions about that subject was okay, but using the structure of an actual divorce case involving an average middle class family with average or upper average assets and children would be the way to go to make the course educational and useful and constructive in a sense that the students would gain insight and abilities to deal with practice matters as well as the sort of complex but not necessarily really complex issues. There are very complex issues when it comes to property in that property ownership

can itself be quite complex. After all what can a person own? Well, almost anything. And what property can be involved in a divorce? Well, whatever a person could own could be involved in a divorce. So from that perspective, the cases can get very interesting and very complex. Then jurisdictional issues and child custody and support issues all can play in to make for at least a challenging set of mock facts or hypothetical facts that can be very challenging to the student.

So, for more than 30 years now my family law course, which has long since lost that title but rather is called Texas Marital Relations and Divorce, involves a project rather than a test in which during the last week of school the students spend the last week in the class, class time, settling a dispute between a mock couple, a hypothetical couple, and settling their child support, child custody and settle their community property and division of that community property issues. They write answers on legal issues that are implicated in the fact situation. That's the way I've been teaching and testing the former family law course for more than 30 years.

More recently, the last four or five years, we've also had an adjunct from Houston come to teach that same course and I've team-taught with him at least the last three or four times that he's taught. He's been teaching at the University of Houston for the last 10 years, and he loves teaching as an adjunct, not as a career. He's a famous divorce bomber from Houston, his name is Randall Wilhite, and he comes up on Friday for the last several years now to teach a long class, a hundred minutes, Texas Marital Relations and Divorce. He has adopted me as his partner. He does most of the lecturing, he has a great store of war stories and he and I put together a significant Power Point program. The course has been very, very successful and the students leave after they've settled their first divorce case before they ever graduate.

MB: What was the Law School like in 1970 when you first got here?

JS: In 1970, there were many fewer professors. I'm guessing 30 offhand. I would be hard-pressed to name them, certainly, but they were in that range. There was exactly one clinic, mine. There are 17 now, but for many years, there were one and then two and then three clinics. I'd say after 10 years there were three and after 20 years there might have been six, five or six. Now, after 40 years there are 17 clinics. Back to 1970, there were many fewer professors. Classes were much bigger because the class was much bigger. Of course, we have about the smallest entering class ever this year, but we were taking 525 to 550 students in the 1970s. With 30 professors and many fewer adjuncts as well, classes were always much bigger than they are now.

The faculty was different, too. For example, much more social and much more interactive with each other. The first year, my wife and I with a brand new baby, our first, were invited out to dinner at other faculty members' houses at least three times a month for that first year. There were other social events of collegial nature as well, and then the faculty itself had a 9:00 o'clock and 3:00 o'clock coffee. Everybody would show up some of the time and quite a number of people would show up sometimes twice a day for discussions and much of the discussion was legally based with Charles Alan Wright leading the discussion, certainly at the 9:00 o'clock. I don't think he missed hardly any. The dean would preside pretty regularly and so business was conducted, basically, at the 3:00 o'clock and 9:00 o'clock coffee break, which was 9:00 to 9:30 and 3:00 to 3:30 and not very many people would attend both. But most everybody would be there several times a week. I mean there would be 10 a week and most times you would go to one coffee or the other a couple, three times a week. Some people would be there considerably more than that. As a result, the faculty had a lot more to do with talking to each other and a big part of the conversation was legally oriented. It wasn't just sports or current events or politics, it was an awful lot of

law discussed as well. That was what it was like in 1970.

As time went on, it changed very dramatically and of course we got a lot bigger. The faculty size is twice as big and the adjunct assistants with courses must be three, four, or five times as many adjuncts. I know that Fridays had classes and now Fridays are pretty much limited to adjunct classes rather than to classes taught by tenured faculty. Of course, we have so many more courses with regard to the 17 clinics. The whole emphasis of teaching has gone from what you'd call traditional Socratic style or quasi-Socratic style classes to this wide variety of different ways of educating lawyers.

So night and day, the contrast is more than night and day. I mean there needs to be some other thing played into that because night and day sounds like two things and we don't have two things - we have multiple ways of getting law school credit for doing things that were unimagined in 1970. You could say I was at the center of at least a big part of that change and that is the first clinic of any significance was the Legal Aid Clinic that I started in 1970. In all it had existed for a year before I got here and that was why I was recruited. A year before I got here, the clinic providing legal services to indigent clients was opened up on the east side of Austin but there was no classroom component and there was no regular faculty involved. The dean decided that wasn't working. This new type of clinic that he had started was a substitute for something that had been going on for about 30 years where a downtown lawyer came once or twice a week to supervise students in providing services to indigent people. That was a clinic of a sort, but there was no faculty at all. Then he hired a couple of lawyers to run this fulltime insofar as supervising the students, but with no classroom component. The idea was that the clinic would have a classroom component and a field work component. That would be the new model for legal aid clinics. And for clinics in general.

The second thing that I got involved with was posting people to the Legislature the next year, 1971, who had to work in the

Legislature and wrote about the legal goings on of the Legislature and the bills that they were passing. That too was a different way of getting credit than just being in a classroom. Before you know it, I was dealing with clinics halftime and coursework halftime and then I wound up doing one family law course, one seminar that would be either legislation or family law and then the other half of my time would be the clinic itself. That went on from 1970 through 1980 when I added a new clinic and that was the Children's Rights Clinic. Like a fool, total fool, I kept the Legal Aid Clinic going too. So I had halftime classroom and two clinics going, which turned out to be too stupid for words. After a couple of years, I closed the Legal Aid Clinic and went with just the Children's Rights Clinic.

MB: The next clinic established was the Criminal Defense Clinic in 1974. Can you talk about establishing that clinic?

JS: The Criminal Defense Clinic was opened up by a colleague, Bob Dawson. He was the second clinic and he went to serve as a Public Defender in Washington, DC, to get some criminal defense experience. He taught criminal law but teaching criminal law and doing criminal law are two different things. So he spent a year, if I'm not mistaken, in Washington, DC, as a public defender and then came back and opened a clinic. He did the classroom component and he had local lawyers doing the supervision. That model was more or less the same model as the Legal Aid Clinic in that I did the classroom component and the supervision was done by Legal Aid lawyers. Dawson did the classroom component and the local lawyers were criminal defense lawyers. They were not separately employed as the lawyers in the supervision in my clinic were. So that was the model for a while and that turned out to be one that's very difficult to apply more widely so we wound up with a whole host of different models of clinic. Most of the clinics are now taught by clinical professors in the classroom component and the supervision is done

by that same person or those same persons.

We started with tenured faculty, myself, Bob Dawson, and then Michael Churgin, who has a Mental Health Clinic, and that was the end of tenured faculty to run clinics. Dawson is deceased, Churgin and I are still at it and there are additional tenured faculty now who have gotten interested in providing this alternative experience. There are two or three tenured faculty and those are special kinds of clinics with specialized workloads. The bulk of the clinical professors are non-tenured professors and so characterized as clinical professors.

MB: What made you decide to open up the Children's Rights Clinic?

JS: Well, it's a funny story. Well, maybe not funny. In 1971, I got interested in the Legislature and started this seminar. By 1973, I had been teaching family law for a while and I got interested in the Legislature not only for my seminar but just for my own interest. I wrote my first bills, and one got passed in 1971. It was a consumer protection bill. Then in 1973, I started concentrating on family law legislation at the Legislature and indeed the State Bar of Texas was promoting a new Family Code with regard to children. They already had a half of a Family Code on divorce and then they added a second, in 1973, covering custody, support, termination of parental rights, all the issues that would be involving children. I testified with regard to that bill, and was the only person testifying that the terminology that they were introducing was foolish. They did away with the words custody and visitation and added the words managing conservator. I testified that that was ill-conceived and very difficult to understand and that the Legislature ought to go back to normal English language. Of course, I was a rookie more or less and also a Yankee. The Legislature didn't listen to that testimony and went ahead with that foolish terminology.

By the time '75 rolled around I was recruited by the Bar to

be their spokesperson in Austin because I was the only one in Austin who had the time and inclination to go over to the Legislature and talk to them about the massive number of amendments they needed to make to the bill that they had passed the time before. I agreed to be recruited into the tent of the Family Code.

You asked how did the Children Rights Clinic come about? So in 1978, or so, there was a decision made by a three-judge panel, federal court in Houston that struck down a great part of the Family Code as unconstitutional.[10] One of the aspects was that the children in termination cases did not have a lawyer. The fact that the Children Protective Services asserted that they were speaking on behalf of children was not satisfactory to the federal judges in that the state agency had its own fish to fry and could not legitimately say that they represented the children. Yes, they were taking custody of the children but then speaking for them and for their interest just wasn't appropriate. So the children should be appointed a lawyer.

In 1979, I wrote a new statute.[11] This one I had help with actually. I and a practicing lawyer from Amarillo who had been a US Congressional aide for some years drafted it. I wrote the first draft. He didn't like parts of it and so we worked on it and worked on it and we wrote a new version to meet the complaints of the three-judge panel that struck down this big part of the law with regard to the termination of parental rights for abuse and neglect. In 1979 that bill was presented and passed after the House had gotten the bit between its teeth. I got a call at 6:00 o'clock at night to get back to the Legislature because they had made a fuss about this bill. I got down there and talked to a whole bunch of legislators and got them to turn around. They passed the bill and part of that bill was that kids would have to get a lawyer.

Thinking clinically, my goodness the abused or neglected

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10. (Sims v. State Dep't of Public Welfare), 438 F. Supp. 1179 (S.D. Tex. 1977), *rev'd and remanded*, (Moore v. Sims), 442 U.S. 415 (1979).

11. S.B. 768, 66th Leg., Reg. Sess. (Tex. 1979).

children are going to have appointed lawyers and that would be a great opportunity for a clinic. It turned out, of course, not as just a great opportunity but, in my way of thinking, still the best possible opportunity for going to court for a law student is to represent a child in a case in which the parent-child relationship is at issue. I asked the dean for money and was told no, no money. So I asked the dean for permission to ask for a governmental grant from the Department of Education which had some money for law school clinics. I wrote an application in 1979, after getting the bill passed, for an Ad Litem Clinic because that's what the attorney is called. An Attorney Ad Litem Clinic and then I sent it off and got turned down. Why it was turned down? They don't tell you. Just turned down. I thought some more and I decided well, I will reapply in 1980 and I did reapply and I just sent exactly the same application except for one change, no longer was it the Ad Litem Clinic, it was Children's Rights Clinic. This shows the value of advertising. We got a $25,000 grant. That was enough to hire a lawyer in 1980. The dean agreed that we could open another clinic, and the Children's Rights Clinic was opened. I stupidly didn't shut down the other, the Legal Aid Clinic that year. In fact, I kept it going for two years. This new clinic turned out to be so much better for the students, so much more than just pushing paper around to get poor people divorced and get a woman a custody order for her children and a child support order that won't be paid, which is what Legal Aid family law is all about, as a practical matter. So I wound up at the Children's Rights Clinic. It started in 1980 with no cases and five students and now we've had thousands of clients, thousands of cases or more and it's still going.

MB: In 1980, you had no cases and then your case load starting picking up when?

JS: The first clinic was September of 1980 and we had no cases and five students. We grew pretty fast because the local judges liked

us and liked the way we were doing business. We discovered that you can't shut down in the summertime because your cases don't go away. We were a year-round clinic, we have to be open for all 12 months because the cases go and the way the schedule goes is quite often you're going to have a jury trial or at least a trial to the judge during the summertime, maybe more than one, maybe several. We did have students for a while in the summer when we had a significant summer school. We still have summer school but nothing like it was in the 1980s and through some of the 1990s. Of course, the summer school now has been reduced very significantly but we still have to keep open with our case load. But we do not have students in the summer.

MB: Just you and the lawyers.

JS: Just me and two lawyers. We went from one lawyer to two. We went from one lawyer to a lawyer and a half pretty quickly and then from one lawyer to two lawyers. We used to take 20 students, 25 students, and that's very difficult because the cases are very demanding, so we kept reducing our number of cases we take and the number of students we have. Now we'll take 12 students and we usually get our 12, sometimes 10. We only have 10 this semester. When the clinic closes with 12 and then two of them don't show up, you wind up with 10 and that's what happened this year. Each student gets three new cases and gets three or four old cases and two supervisors.

The practice in CPS cases, Child Protective Services cases, is very court heavy. It's an unusual practice in that you're going to court is not set by the judge or by the lawyers, but by the statute. Most civil cases, virtually all other civil cases, you have a hearing when a lawyer wants to have a hearing and you don't have a regular schedule of how often you have to have a hearing. One hearing or two temporary hearings would be more than sufficient in the average

case, but very rarely do you have more than one or two, and two at the most, temporary hearings. In children's rights cases, there's a hearing the first day of the case, within the first day or two of the case that we are not invited to. Then there's a hearing within 14 days, a hearing at 60 days, a hearing at six months, that's four months later, a hearing at 10 months and supposedly a final hearing no later than before the first year. The case is supposed to be over within one year. Then there's a one-time exception of that and if that one-time exception is asserted, you would have a 14-month hearing and then a final hearing before 18 months. You've got regular going to court in every case without exception and so if it goes according to the strict schedule, four or five hearings within that year including the final trial, or final dismissal, and so it keeps you busy. It keeps the students busy and, of course, we have very strict rules about how often the students have to see their clients. Unfortunately, one weakness of the case is that we get a new bunch of students every semester. A few will stay on for advanced. Last spring, we had three stay on and this spring, we have one. We'll have this turnover that a new student has to go see the client right away. This might be a little confusing to the kids but it's inherent in the fact that the law school is the appointed representative and we use the student as the primary contact with the client.

Then the student is also the primary contact with all the other assorted people involved in these kinds of cases and that's what makes the cases so interesting. You have not just a disinterested other side, you have a District Attorney who's representing the department which has case workers and case supervisors and then there are foster parents involved, there are relatives of the parents involved, there are witnesses, there may be medical personnel, there will be school personnel, there will be mental health professionals, and it goes on and on as to how many people get involved in Austin, Texas, in a case in which it's alleged the parents have been abusive or neglectful and the State should get custody and terminate parental rights. So high

stakes issues and very much high stakes and high attention is paid, certainly in this county to the litigation.

MB: Starting with the Legal Aid Clinic in the '70s, how has the law community in Austin and in Texas responded to the clinics?

JS: To the Legal Aid Clinic?

MB: Well, it started with the Legal Aid and then building with all the different new clinics you've added.

JS: Well, of course, the Legal Aid Clinic is no more and hasn't been since 1982 or so. We were well accepted. The Legal Aid operation was not a law school operation. It started out as a law school operation and that lasted only a year or two after I got here. The local Bar decided that the law school operation of the clinic was appropriate and being run more efficiently and better than the official Legal Aid Society. So the law school clinic took over the Legal Aid Society and the lawyers that were hired by the law school became the lawyers. They changed employers and in that operation I got to be on the Legal Aid Board and was there for 25 years or so and then ultimately Washington did some consolidation so that the local office, the Austin Legal Aid Society, went out of business. They consolidated so that not every town had their own Legal Aid Society with its own board of directors and so forth, but there were three agencies in Texas in this consolidation of programs, and Austin did not remain the headquarters for one of the consolidations. So anyway, then I was no longer on the board of directors and I've learned to live with that.

MB: So the community has been pretty appreciative of the clinics?

JS: Yes. Certainly the judges are big fans of the Children's Rights Clinic, as best I can tell. I have two lawyers and I've had two lawyers

now for most of the time since 1980. I'd say maybe the first five or six years, we had one and a half and when I got the dean to agree to two it's been two ever since. We only have the space for that. The clinic has only space for 10 or 12 students and two lawyers and I'm glad that is a very satisfactory part of the education. Indeed, the Children's Rights Clinic gets very high marks from the students who participate. Every graduation they have a thing that's like a magazine where the students put where they're from and whatever. They also put down what their favorite thing is from law school. Some of them are beer drinking and some of them are the *Law Review* and so forth. Very few, very, very, very few have anything to say about their favorite thing that they remember most has anything to do with anything that earned them any credit except the clinics. The clinics are the only thing that produce credits for graduation that gets not only significant, but basically, any mention. The number one clinic that gets the most mention for best thing that happened to them in law school is the Children's Rights Clinic. I will say that the Immigration Clinic is a solid number two and that Dawson's old clinic also gets a lot. That last graduation every clinic got mentioned by somebody insofar as their favorite thing that or most important thing that they did in law school was to be a member of that clinic. So that part of the transition about what it was like in 1970 to what it is in 2013 has been very successful at least insofar as the students are concerned.

MB: Well, now you talked a little bit about your work teaching and mentioned your work at the Legislature, I want to delve a little bit more into that especially because I've seen that you've been titled Mr. Family Law in Texas.

JS: My favorite is the guru thing. Family law guru.

MB: The guru? I haven't seen that one.

JS: Oh, yeah, they say that or used to say that very often in the *Texas Lawyer*, but I have gotten out of the Legislative turmoil. My last serious session was 2007, so now it's '09, '11, and '13. In '09 and '11, I did have some legislation that I wrote. The last bill that I wrote was an important one that got passed in 2009 in one body and got killed in a big controversy unrelated to the bill that killed a hundred bills, two hundred bills right at the end of the session including the one I wrote. It was passed in '11 pretty much as originally introduced and that was my last bill that I wrote. Sort of a major bill but I didn't go over and testify much in 2011. I think I was asked to do a couple of things, but otherwise I didn't do it. I'm getting too old and just don't have the energy to go over there and sit all day or all afternoon, I guess I should say. It's never all day. It sometimes is all afternoon and all evening and even all night a few times. I know one time I did tell my wife, I got home at 6:30 a.m., and I told her I'd been working on this child support legislation. As far as I could tell, she believed me. Well, she pretty well keeps track of me so I guess I was believable.

Anyhow, I did become very active in drafting legislation for the Texas Legislature, on request and on my own motion. I started in 1973 with minimal and certainly from 1975 through 2005, my role was relatively extraordinary in that I had more or less the ability to kill anything, and the ability that if I had been involved in its drafting, it would pass. It was partly, I'm sure, because I'm a UT professor and it's not solely the talent I have in writing legislation. I have a lot of talent in writing legislation, there's no question about that. I've written so much legislation that has gotten passed in so many different contexts that I just have apparently a knack that seems to me to be quite natural and easily copiable, but apparently is not.

From 1975 when I was asked to speak on behalf of the Bar because of this major piece of legislation they passed in '73 that I had testified against, they wanted me "in the tent," to coin a phrase that

Lyndon Johnson created.[12] That gave me some credibility, I suppose, in that I was picked to be the spokesperson for the Bar. That was not by the Family Law Section - that was by the Bar. The Family Law Section had been crucial in the initial enactment, but the Bar felt somewhat mortified by the fact that they had to have a hundred pages of amendments to an original 300-page bill or something. So that gave me some credibility and being a UT professor who's here and interested, that was a lot of credibility. The upshot of it was that the chairs of the two relative committees would rely on me for objective analysis of the legislation. Since I'd written a bunch of it, I was sold on that. Then the other stuff that other people wrote, I was going to try to be very open-minded and objective on that and also could make suggestions when it needed suggestions. As a result of that, I got to be this person who could kill legislation and approve legislation and that happened with Dawson too in the rewrite.

We had a complete rewrite of the Title One, Marriage and Divorce, a complete rewrite of Title Two, now Title Five, Parent Child Relationship. There was a committee, and I was on the committee but not the chair of the committee. The chair of the committee was a lawyer from Fulbright Jaworski and who was also very active in the Legislature, but I was the chief draftsman. I guess you'd say I was the reporter and did most of the drafting. The committee was about six or eight practicing lawyers and me, and I did most of the drafting. Then they did the editing and correcting and the bringing their experience which was far greater than mine because they were practicing lawyers and I am not. As a result, we had Title One, Two, and Three. In that process, through the rewrites, we have Title One completely redone, Title Two mostly put into Title Five with a few little amendments. Title Three, which is Juvenile Justice

12. President Lyndon Baines Johnson was quoted in the *New York Times* (31 October 1971), as saying "It's probably better to have him inside the tent pissing out, than outside the tent pissing in" in reference to FBI Director J. Edgar Hoover.

which I'd never had anything to do with period, was rewritten by Robert Dawson after I bullied him into doing it because he had left the legislative wars. When they came back under George Bush who got the interest to redo it, he wasn't going to do it and I bullied him into doing it. That turned out to be a very good thing for Texas that he returned and redid the Juvenile Justice Code.

Then a new Title Four, which I did not write but did rewrite, and then Title Five, which now is the main generator of legislative decisions and that is Parent Child—both custody visitation and termination of parental rights. That's my history with the Legislature. I had a hand in the initial writing of an awful lot of it and then doing the reporter work or the rewrite work for Titles One, Two, Four and Five. That took me to mid '90s and then I kept working in the Legislature until I did a goodbye session in 2005 and I said I'm not coming back. I did actually come back in 2007 a little bit. I have been pretty much inactive in the last two. In this one, my intention will be not to go over there. I haven't been over there yet, and I don't expect to. I don't expect to go over there to testify. I don't miss it.

That's my legislative history there. The other legislation I have been a reporter for are two Uniform Acts. The Uniform Law Commission is centered in Chicago and I was asked by the [Texas] Attorney General in 1990 to go up and speak to the drafting committee. The drafting committee was working on something called the Uniform Reciprocal Enforcement of Child Support, URESA.[13]

13. In 1988, the Uniform Law Commission established a Drafting Committee to review the Uniform Reciprocal Enforcement of Support Act (URESA) and its revised version (RURESA), and to adopt a revision to URESA or propose a free-standing act on the subject of child support enforcement. At the 1989 Annual Meeting, the committee presented for the first reading some limited initial changes to RURESA. Comments and suggestions at that meeting sent the committee to revise the Act much more extensively, and present those changes at the 1990 Annual Meeting. After receiving more comments at that meeting, the committee recommended to the Executive Committee that final approval for the act be delayed until 1992. At the 1992 Annual Meeting, the committee presented for reading the Uniform Interstate Family Support Act (UIFSA). The new Act was designed to revise and replace URESA and RURESA.

Then there was a RURESA, which was the revised act. All the states had one or the other, the revised URESA or the URESA itself. They were trying to rewrite and so it would be the Revised Revised URESA. They had decided that well they probably were going to need to do a little bit more than that and I either was recruited by the Attorney General of Texas, Child Support Division, or volunteered to be recruited. It seems to me it was the former, but in any event, I was asked to go up and talk to the drafting committee on two points. One is adding a long-arm statute, which we had, which I wrote. I wrote that one together with Professor Baade and Professor Weintraub, but the three of us together just stole this California bill, basically to get a long-arm statute for child support and custody and divorce.

I was going to go to this meeting of the drafting committee for the Uniform Law Conference and talk them into doing long-arm and to try to solve the modification problem that URESA had which was that they had multiple orders. They had one order, then another order, and then another order, and every time a guy would move, they'd make a new order. There was no process for modifying when a person moves from State "A" to State "B." State "B" is hardly in any position to modify a State "A" order because neither the State "A" nor the State "B" law provides for that. Well, I had some good ideas about how you can provide for that and get it done. So I went up to lobby and I came back co-reporter and that was in 1990. I'd already done a lot of child support drafting here in Texas, and so that's obviously one of the reasons why I was recruited to go lobby the Uniform Law people.

Then UIFSA [Uniform Interstate Family Support Act] was promulagated in 1992. By 1996, two things had happened. It passed in 35 states. That's '92-'96 - it passed in 35 of the 50 states so it was very successful. But in 1996, there was a redraft and the redraft came about because of requests to Congressmen and to the Uniform Law

Commission to do a redraft and it came from employers. It was a very peculiar demand, we need you to go back to the drawing board. Why is that? Well, because you have told us that we have to do wage withholding and send the money to the obligee, withhold from the obligor who's working for us and we send the money to the obligee and we're not against that; that's a good idea. But you haven't told us enough. We need more law that tells us what to do and how to do it because the law that you said we have to withhold isn't clear enough and comprehensive enough. So the Uniform Law Commission went back to make more law at the request of the employers to make their jobs easier and to facilitate this functioning of getting child support into the hands of the obligees all across the country. So we had the '96 version and then we had a 2001 version and now there is pending a 2008 version. I was still the co-reporter for '96, although my co-reporter partner let me do all the drafting. Then he got to be a commissioner and I got to be the sole reporter for the 2001 and the 2008 versions.

That's my one act, but it's in force in every state and also a model for the Hague Convention on Maintenance, which is family support, which would be alimony and child support. I was also the reporter for a second Uniform Act, which is not nearly so successful. It's only in nine states, and that's the Uniform Parentage Act. That was in 2000. That too was incompetently done the first time and had to be redone. The redo was in 2002. As was told to me, my offense in the 2000 version was that it was written to pass and did not take into account important issues such as same sex couples, which was skipped entirely in the 2000 version of the Parentage Act and paid no attention whatsoever to them. That was deliberate because it was thought that it would kill the bill. It also had a provision for gestational agreements for what's also called ARTS, Assisted Reproductive Technologies, which is, you know, brave new world of science. The Act did deal with that and that article has only passed in two states, even though Assisted Reproduction Technologies is

widespread across the country but there is very little regulation by law because of the difficulty of getting a Legislature to pass anything on it even though it's going on everywhere all the time, but in an unregulated fashion.

We have the Uniform Parentage Act, and it has a significant way of dealing with it, but one of the things that was offensive about it was the agreement for a woman to carry a child for another woman was limited to a married couple. Texas passed that in that way and then it was changed so that it was not so restricted and nobody will pass it.

Well, that's my Legislative stuff. The UIFSA was four versions and counting, I suppose. The Parentage Act is two versions. All of that other stuff that I wrote for Texas had to be redone in the '90s so that we started with three articles and now we have five titles: Titles One, Marriage and Divorce; Title Two, General now, used to be Kids; Title Three, that's Juvenile Justice; Title Four is Protection in Domestic Violence and Title Five is Parent and Child. The thing takes 1200 pages for the Family Code.

MB: That is quite a lot of pages there.

JS: Yes.

MB: Speaking of Uniform Law Commission, can you talk about the process of drafting a uniform law?

JS: Well, the reporter does the draft, period. The commissioners are drawn from a variety of sources: practicing lawyers, judges, law professors, sort of in that order of frequency, I would say. I think there are probably more judges than there are law professors. The commissioners are the ones who get to decide what the text is but they don't write any of it. That's the reporter's job. Right from the get-go, it's the reporter that comes up with the text and the text is reviewed by the commissioners, more or less like you might think

legislators work, but not exactly because the legislators do very little drafting. Every legislature has professional draftsmen and ours is called the Texas Legislative Council. The writing is done by the lawyers that work for the Legislative Council or alternatively can be written by anybody who a legislator wants to rely on for a draft. Of course, that used to be me in many instances. Whereas the process in the Uniform Law Commission, the commissioners sit around the table and go line by line on a drafting committee and they will have one or two people that are commissioners that are not exactly on the drafting committee but on the style committee who fancy themselves to be experts in drafting. The vast majority of the commissioners on the drafting committee know bupkis, I think is the word, about the subject matter. They are from all walks of life. Now if you're a judge, you know something about the law. If you're a practicing lawyer, you know something about the law but you don't necessarily know something about this law, especially with regard to family law. In this case, we've been very lucky that the Chair from 1996 on in UIFSA has been a judge who did family law.[14] The Chair of the Parentage Commission is a practicing lawyer. My co-author is a big-time divorce lawyer but also very interested in drafting legislation. His name is Harry Tindall - *Sampson & Tindall's Texas Family Code Annotated*. He was the Chair of the Parentage Act and is now a life member of the Uniform Law Commission and involved in almost each and every of the family law uniform acts. He's been on eight, nine, ten committees. Most of the commissioners will not be very knowledgeable about family law. There will be a couple who have some knowledge, maybe two or three, maybe four, total of four that might have significant knowledge because they happen to have practiced in the area. My guess is at least half of the commissioners on all of these committees that I've dealt with are not knowledgeable about family law. If you're an appellant judge, you will have some

14. The Chair for the UIFSA committee is Judge Battle R. Robinson.

knowledge about family law because you will probably have had cases, unless you're an appellate judge that only does criminal law. Most of the commissioners, at least half, will have very limited knowledge about the subject matter that the Uniform Act's about but they will be smart people. I just had a great example of that in we're redoing the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

MB: Used to be UCCJA (Uniform Child Custody Jurisdiction Act).

JS: Right. It's now the UCCJEA and it's being redone to accommodate the Hague Convention on Protection of Children, which I hope doesn't ever pass, but that's a different matter. That committee has got a majority of people that have very limited knowledge. One of the commissioners who knows nothing about this particular subject, said in effect, I don't see where the Emperor has any new clothes at all, looks like he's in his underwear to me. We two law professors had been working on a particular problem involved called habitual residence, which will be brought forth in the UCCJEA in a way that had never been there before because of the Hague Convention which relies solely on habitual residence as a determinative for many of the things that are to be decided. And, I said, oh my goodness or words to that effect, and the reporter said, oh, crap. Why did we not see that the Emperor doesn't have clothes in this habitual residence issue? We didn't see it. We knew that habitual residence of a child in France is France. We never saw, even though we should have, that the habitual residence of a child in the United States, is not Texas or Oklahoma. It's the United States. Because when you're talking about the issue in Texas or Oklahoma, that's where the residence is and when the child moves from Texas to Oklahoma what changes is the home state in the UCCJEA and in the UIFSA. Because in the UCCJEA the custody issue that you decided in Texas and the kid moves to Oklahoma, the test for home

state is here, six months later the home state is there and this is no more. Texas is not important at all and Oklahoma is the only thing that's important. It's the home state test so what state you live in is everything. In the UIFSA, it's the same sort of thing. That is, the child support order is here in Texas. When the kid and the mom move to Oklahoma, the Texas order is what counts and as long as the dad lives there, the Texas order controls. If the dad moves out and mom wants a modification, she has to sue, if she wants a modification in Arkansas where he lives. If he wants a modification, he has to sue in Oklahoma because the Texas order continues to control both of those, but now the key is where does he live and where does she live, and that's either Oklahoma or Arkansas. So that's the key and that's how habitual residence doesn't translate in the United States because it's all what order is controlling, or alternatively if this order no longer can and should control, where do you go? Well, it will be here or here? So habitual residence, how are we going to work with that? Well, they want to work with that and we don't work with that within our country, but when it comes to habitual residence, it doesn't matter to them—Oklahoma, Arkansas, it's all US. We did not see it because we don't see it that way for our purposes. Habitual residence is not a concept. Home state is a concept. Controlling order is a concept. Where do you live for modification is a concept. That's all state-by-state, but for the international context, we don't have to worry about that. It's all US.

Now, they will see the habitual residence as US and they won't care where you have to go to modify. It's just US, but we don't see that because we are too close to the US and rules for jurisdiction are so goofy. You have a divorce, you want to divide the property, you want to have custody, you want to have child support and you want to get divorced. Four things you want out of the case. How many rules of jurisdiction that are distinctly different and yield different

results? Does that make any sense whatsoever in one lawsuit? Four different rules that will put the jurisdiction in different places? How did we get there? The US Supreme Court got us there by deciding this case, this case, this case and this case and inconsistently deciding jurisdictional rules. They are too arrogant and full of themselves to even know what a mess they're making of jurisdiction. But that's the advantage of being a Supreme Court Justice, you don't ever have to admit error because you didn't make any.

MB: What led you to decide to work with Harry Tindall on your book?

JS: Two things. One, to make a buck. Two, to get it right as to what a lawyer would want in the book, and it took both of us from our very different perspectives to come up with what turns out to be a winning mixture. *Sampson & Tindall's Texas Family Code Annotated* has been copied in four other states. I'm surprised that it's only four, but I guess they're limited to the number where they can actually get enough sales of a family code to make it worth their while. In Texas it's been copied a dozen times, the format. West is well aware of the fact that a format is not copyrightable, and, of course, they keep the copyright anyway of their books so if you publish with them you, you're stuck with that part of the contract. In any event, West has told me that they took a couple of things on the road show, and they went to Arizona to ask the people what they wanted in the book as free-form. It turns out that they described *Sampson & Tindall's Texas Family Code Annotated*. How it came about was that he and I did a book in 1985 with a local publisher. They printed a thousand copies and they sold out. We wouldn't have anything more to do with them and it was just the text of the Family Code and we didn't think it was appropriate to have our names on it even. I had a student who was very friendly when she was working for Bancroft- Whitney. She

wanted me to write a book and I said I don't want to write a book. Then we got this thing published and we were very dissatisfied with it.

It wasn't their fault, we just didn't know what we were doing on the first one and so we just put out a text. We worked on what we should have and so Bancroft-Whitney contacted me and I said well, "I've got an idea." And we published with Bancroft and then it got sold to Lawyers Co-op. We had more trouble with Lawyers Co-op in that Lawyers Co-op didn't like certain things about what we had done. They had a system that they wouldn't print things like writ histories and other kinds of Texas things that people in Rochester didn't care for. We had a little fight with them to say that, "You know, we submitted it this way and if you won't submit it that's fine, you can't publish it, you throw it away because we won't have our name on that." So, they agreed, finally, that they'd do it our way.

I remember one of my early encounters with West, unrelated to this book, but I wrote them one time early on that they had classified managing conservatorship as a guardianship or something like that. I wrote them, I said you know, your key system, you put this thing, this is custody of children. It's a weird terminology I agree, but it's not anything to do with guardianship. Guardianship here is in the Probate Code and managing conservatorship is not a guardianship, it's a custody order. They wrote me back a nasty letter. You know I wrote back a nasty letter saying, well, it's really good to see that you people in Minnesota know more about Texas law than those of us here in Texas who practice it.

Of course, West also fired my mother, so I also had a little grudge against them because they fired her. They called her in and she'd been working there for, I think, 14 years. She started after eighth grade to work for West. She was, according to her, their best gold stamper by a ton. They don't do that anymore, I'm sure. That was where she'd worked and they called her in one day after all those years. Somebody had reported, after work, seeing her get on the

Como-Snelling streetcar instead of going on Maria Avenue streetcar where all of the Molines worked and lived up on the East Side of St. Paul. She's getting on a Como-Snelling streetcar going west. They called her in to check on this report and she acknowledged that she had gone down on Como-Snelling after work. He asked her the crucial question and she messed up and so, well, you know, here's your check. You're done here 14 years, but you have violated our rules. You know the rule?

MB: No.

JS: Oh, well, she'd gotten married.

MB: Oh.

JS: They didn't employ married women. You get married and you get your walking papers. That was West in the 1930s. No married women.

MB: How did West come to publish your book?

JS: It went from Lawyer's Co-op to West and been there ever since, so I'm trying to remember. Our first one with Bancroft-Whitney must have been '91 because the first one was obviously a Legislative year. We sell a lot of copies, but O'Connor's sells a lot of copies, too, unfortunately. We had the market to ourselves for the first ten to twelve years and then O'Connor's came along, cut the price, made themselves a significant niche. I can see where it would be smart to go back and forth if I were a practicing lawyer.

MB: It is April 1, 2013. I am here again with Professor Jack Sampson. We are doing his second oral history interview. Tell me about your involvement with international family law.

JS: Yes, how do you wind up being a figure on the international scene is a series of happenstances that, in my case, go way back. They go back to my activity in Texas as a legislative draftsperson, unofficial, particularly working on child support enforcement. Of course, establishing an order for child support is an automatic and relatively easy thing to do, particularly in Texas where for a long time has been child support guidelines and those guidelines are pretty slavishly followed by the judges. It's just look on a chart and see what percentage of the obligor's income after certain adjustments are made and how much the child support order would be. Throughout the period of the early '80s, I was very active in drafting legislation with this in mind.

There was a new effort by the federal government to assist the states in enforcing child support. That began way back in 1975, but it really got going in the early '80s. The reason for Congress being so interested in child support and enforcing child support was partially for the good of the children and partially the selfish motivation of the Congress to reduce the amount of Aid to Families with Dependent Children, AFDC it was called then. Temporary Assistance for Needy Families is what it's called now, TANF. In any event, the numbers were quite significant. So Congress got the idea that if fathers who were separated from the family were more effectively enforced in making the payments of child support, that would reduce the federal expense and ultimately, the burden would be borne much more by the fathers and much less by the federal government and by the federal taxpayers. So there was a lot of activity in drafting state legislation in this regard.

One of the things that had to be done in the late '70s and in early '80s was to amend the Texas Constitution to provide for wage

withholding under the then mistaken belief that you couldn't withhold from a person's wages child support. It would take a statute or perhaps a constitutional amendment or both. I got involved in writing both the statute and the constitutional amendment, although many said that the constitutional amendment couldn't possibly pass because the labor unions would be against it and fathers would be against it. As a matter of fact, it passed 85 to 90 percent that Texans were in favor of withholding child support from people's pay checks. Right along at this same time, Congress was enacting further legislation and so there was a lot of interplay with the state government. By this time, the Attorney General had become the enforcement agency for child support in Texas. I had a lot to do with the Attorney General's Office and writing the statutes.

That went through about 1986 when we got our act together pretty well and everything was settled except our relationship to the federal efforts. In that regard, the Attorney General was having a conference and I was speaking at the conference. A person who was a UT Law grad who was at headquarters with the ABA in Washington was also speaking. Her name was Diane Dodson, and she was very well known at that time. She spoke either before me or after me and invited me to join the efforts in Washington with regard to the ABA Children and the Law Project. All of a sudden, I had gone from local parochial guy to at least national guy just by the chance of a person who was invited to speak who was well-connected with the ABA in Washington, DC. She liked the way I spoke and she invited me to become a member of her Board of Governors. Of course, any chance to go to Washington I would do because as I mentioned before my wife and I lived there and our first child was born there so I have a fondness for Washington, DC. So yes, I'll be happy to be part of the ABA efforts with regard to child support. Now I'm sort of on the national scene.

A few years later, the Attorney General asked me to go to lobby for child support enforcement with the Uniform Law Commission.

That is the people who draft the Uniform Laws. The Uniform Commercial Code is their most famous product, but they have a lot of other famous products which we'll get to in a second. I would go up and I had a couple of things I was asked to or had suggested I would go and lobby for. One was a long-arm statute. The second one is amendment of what was then called Uniform Reciprocal Enforcement and Support Act, URESA. It was going to be revised and should have not only a long-arm statute, but it should have a system where there's only one order at a time. One of the big faults in the enforcement of child support, maybe the major fault in those days, was that every time an obligor moved, there'd be a new order. Of course, it would be a new order and a new court, and then you'd have two orders or three or five or sort of how many ever orders there were as the obligor had moved. This could happen not only between states, but would also happen within a state. If an obligor moved from Austin to Lubbock, there would be a new Lubbock order. There would be two Texas orders of equal dignity going at the same time with no real connection between them, but both valid.

I had some ideas about how that could be cured. If there was only going to be one order, then how do you modify it when it needs modifying, whether it's going to be just the same order but a new place to pay it or a different order and a new place to pay it. I took off to Denver, Colorado. I went as an emissary for the Attorney General of Texas and I came back a co-reporter for this revision of URESA, or actually it was a thing called RURESA, it was Revised Uniform Reciprocal Enforcement and Support Act. Along the way the name was changed to UIFSA, the Uniform Interstate Family Support Act.

I come back as a co-reporter with Uniform Interstate Family Support Act, UIFSA, and now I'm a national figure for sure because I'm with this ABA thing and I'm also a co-reporter on this would-be act. Of course, that was retitled to UIFSA and it was promulgated.

My first contact with the Feds was in 1986. I remember being on the phone with them repeatedly with very hostile conversations

and then working in 1990, we get to the UIFSA, and I'm co-reporter. In 1992, we put out the first version.

The drafting that had been done up until then was changing the language a little bit and not really doing anything significant. All of what URESA did overturned the one order thing and had to start from scratch to do one order at a time. We had to start from scratch when we got to modification and how the order would travel and when an order traveled how would it travel. There would be something called a controlling order in order to determine which of the multiple orders you were going to deal with. Well, you were going to throw all the multiple orders out and make a new order and that would be the controlling order and all the other orders will be subsumed in it, that kind of thing. Then, what would you do when that controlling order came in to be modified or enforced and how you would deal with that. How would you modify and where would you modify when the obligor moves and the obligee stays behind. Of course, the original order would be enforced in the original state. If the obligee moved and the obligor stayed behind, then the order would still be enforced in the original state because that's the controlling order. Now when the obligor moves to another state, you're enforcing the Texas order in Oklahoma, but it's still a Texas order and it's the Oklahoma court that's making the enforcement, but it's not making a new order. So that's the way the system was designed after the 1990 restart. Doing it that way, everyone understands that there's one order and one order only at any one time. But other states may be using their own law with regard to enforcement, but they will use Texas' order for duration and for amount and so forth and that can't be modified by the court in Oklahoma that's making the obligor pay. Whereas if the obligor stays put, well of course you're enforcing that order where he stayed put. So that's a simple thing.

But what if both parties move to different places? Well, that was another kind of conundrum that I had ideas about. My idea was play an away game. You want to change the order and you live in

Oklahoma and he lives in Kansas and it's a Texas order, you have to sue in Kansas. You want to change your order to pay less and you live in Kansas, well, you have to sue in Oklahoma. So whoever's trying to modify that Texas order has to play an away game on the other person's home court. One of the arguments for that was so crucial insofar as the commissioners were concerned was if you just apply the natural rules when no one lives in Texas, to use the ordinary jurisdiction then the way Mom who's moved to Oklahoma gets an Oklahoma case she has to have personal jurisdiction over Dad in order to use Oklahoma because that's the basic rule for child support. Basic rule for child support is you have the personal jurisdiction. The basic rule for custody is the kid has to live here. Strange, but very different rules for the two things that you need to do when you're dealing with custody and support. Well, so Mom has to use Oklahoma law with personal jurisdiction over Dad all she does is wait until he comes to pick the kids up for visitation and as he knocks on the door, out springs a constable to give him the papers. The same thing could happen, if Mom ever finds herself in Kansas. All of a sudden she's sued to modify the Texas order. So you don't want that ambush kind of thing that would be part and parcel of a system in which personal jurisdiction over the other person is crucial, which is never crucial any more after the long-arm statute was put in UIFSA, which is why I had gone to Denver in the first place was to get that done. We had it in all of our statutes in Texas that I had written sometime before and we had passed sometime before, and I had stolen entirely from California and had no really drafting credit due me at all. Just that I found it and stole it.

Now, I'm a national figure with the Uniform Law stuff and we passed it in '92. By '96, thirty-five states had adopted it—a fantastic acceptance of this new document. Then Congress mandated all the states to pass it; then we had a 2001 version; and now, we have a

2008 version taking into account what's happened. Now we get to the international stuff.

The last part of the preliminary is that in 1996, Congress got interested in international child support enforcement as well and they directed that the State Department, working together with the Health and Human Services Department, could make deals with other countries for international child support, and that these deals wouldn't be treaties, they would be agreements - basically contractual type agreements that did not get treaty status. The State Department began running around all over the world with these efforts to get these bi-lateral agreements between countries. They have all of the Canadian provinces, but one. Guess? What Canadian province doesn't want to be in Canada?

MB: Quebec.

JS: That's right. Any guess when it's one Canadian province the answer is always Quebec, only Quebec. So anyway, now the international enforcement is going along and I was not involved at all and I've been always a little bitter about it. The person who was running it was a lawyer from California named Gloria DeHart, who didn't like me at all because she didn't like UIFSA at all. Exactly why she didn't like UIFSA, I can't remember. In any event, the first time I met her she upbraided me for all of the defects she saw in UIFSA. Actually, over the years we did get to be quite friendly, but it took ten years. She did not recruit me to go around to other countries. I'm a little bitter about that, but not too much because I wouldn't have had the time or energy to do it anyway.

I'm not on the international scene until the State Department takes charge and that's where I was recruited to go to Central America in 1992. There was a delegation of four or five people. There were two of us from Texas, me, a person from the Attorney

General's Office named Gary Caswell and then there was Mary Helen Carlson, the leader, and State Department person Ann Miller, and a couple of others. We go off to Central America to negotiate with three countries. That's the beginning. A short trip to Central America is my introduction to the international scene. The only thing I remember about it was we first went to Costa Rica, a very modern, very well-run country and the State Department directions were "take a cab to the hotel." Then we move. We go from there to Honduras and the State Department directions are now "do not take a cab. Take the Marriott Hotel bus that will be there at the airport." And then we went to El Salvador, "don't take a cab, don't take the hotel bus, we'll pick you up, and when you get to the hotel, stay in the hotel. Don't be going walking around in the neighborhood of the hotel. Just stay in the hotel." That was El Salvador. So, we met, and Mary Helen did almost all the talking.

Back we come, and there's sort of, "well we'll definitely maybe have an agreement some day." That was 1992 and no bi-lateral agreements between us and any of those countries. But 1992 led to 1993 and in 1993 discussions start at The Hague for considering a new maintenance convention. There's a whole bunch of maintenance conventions already in existence. There's one called United Nations Agreement, usually called the New York Agreement, and then there's a whole bunch of Hague conventions. There's a set of two maintenance and procedural from the 1950s and then another one from the 1970s and here we are in the 1990s for yet another one and another maintenance convention with a protocol as well. The protocol is for civil law countries and not for countries of common law like us, United Kingdom, Australia, New Zealand.

I was offered to come to be part of the 2003 drafting committee, of which there were a dozen people at that time to be at The Hague. I was, of course, the UIFSA expert. Being by this time

the sole reporter for UIFSA it now had been, I guess, half a dozen years by 2003. That was my 13th year of serving as the reporter, having already created three versions. Demonstrating two things: one, whoever is writing this thing has to be me and two, I can't really get it right because I have to keep doing it every few years. I'm on the committee as a spokesman of the US committee. The head lawyer for The Hague doing the work is very enamored of the way UIFSA functions with its one order at a time and its comprehensive nature insofar as modification and dealing with multiple sovereign entities. There's only 27 countries in the European Union and we've got 54 states. Yeah, we have 54 states UIFSA said so. Well what are those extra ones? Puerto Rico, Guam, District of Columbia, Virgin Islands.

That's how I got to be an international person. I went from 2003 for five years, two weeks a year with two exceptions. One of the sessions was ten days and one was three weeks, so I averaged a little bit more than two weeks a session for over five years, stretched out over a five-year period. During the first two years, I had a significant role in that there was a lot of need for understanding the US law and what we could and couldn't agree to and what we would and wouldn't do and what the states would and wouldn't do and what the US Supreme Court had, over these years of making decisions on limited pieces of the picture, made such an uncoordinated mess of jurisdiction in family law cases, giving a different rule for five or six or seven different cases that come in. And, as they come in they get a little bit different rule and all of a sudden you've got multiple rules for divorce and multiple rules for child cases, child support and custody cases. It was necessary that if the US was going to be in this game, it's necessary to take into account US law, and what the US experts on family law think, which isn't the feds. The federal government doesn't know much, if anything, about it. They like to tell the states what to do, but they don't know a lot about child custody and child

support because there's no jurisdiction in the courts to do that so the federal courts don't do it and so Congress doesn't legislate it. For example, right now we have this thing about marriage that Congress legislated called DOMA, Defense of Marriage Act. They messed it up because it's not their field and so they decided in 1996, well there's this gay marriage thing and we, the feds, have to control and stamp it out because otherwise the states might start doing it. So they passed this law that, of course, is causing the US Supreme Court to tear its hair out because, you know, it reviews and changes the whole world of full faith and credit. Of course, the words full faith and credit they've tried to change into meaning something about borrowing money which, of course, has nothing whatsoever to do with that. Congress will even use that as a term for borrowing money and the full faith and credit clause is totally removed from anything about borrowing. So they just mess things up.

So we were there. I was there for the first couple of sessions together with the other law professor, Bob Spector from Oklahoma, recently retired, but still active in the area, and primarily interested in the uniform custody issues. Both of us have a pretty crucial role for the first two of the five years and then it was settled as to how to handle the US and how the US would handle incoming orders and how other countries would handle incoming US orders. The solution was relatively simple for handling US orders - all it takes for other Hague countries who have signed up with the convention to enforce our orders is that we're part of the Hague Convention. By being part of it, when our order comes in they are duty bound to enforce it with no ifs, ands, or buts because we're a member.

Now the secret of international agreements like The Hague and so forth is the European view is it's all well and good to enforce orders, but why would we like to not enforce it? What circumstances can we think of where we won't enforce it? Well, let's talk about

this for year-after-year about why we don't have to enforce what we're agreeing that we will enforce. We'll talk about it endlessly and you cannot ask us to enforce something that's against our public policy, can you? Well, certainly not. It's against our public policy so we won't enforce orders that are against our public policy. Well, European spokesman, what is against your public policy? Well, we haven't worked that out yet. We'll have to decide that when we get to it. Well can you give us some examples? Well not really offhand, no, but I suppose if, oh, I don't know, I don't know why, but we'll know it when we see it. Sort of the answer like, like Justice Stewart's answer for pornography.[15] They spend all this time, but they settled that their obligation would be to enforce our orders unless, of course, we can think of a reason and we'll put in the agreement that if you do this that we won't have to enforce it and we'll spend many, many years here trying to figure out which of those things it is that we won't have to enforce the things that we will enforce. We say otherwise we'll enforce.

With us, we have this personal jurisdiction hang up that if the obligor doesn't have a relationship to the place that wants the jurisdiction, the state that wants to order him to pay child support if there's no such personal relationship with it then they can't make an order. He's got to live there with the kid and this is where the long-arm statute comes in. If you're living here in Texas with your wife and kids and now your wife goes down to the courthouse, and you've been living here in Texas for the requisite time to get divorced, and the requisite time for custody jurisdiction, then you will be bound by the order. But if you're living someplace else, that's where the long-arm statute, says well you used to live here. Are the

15. Justice Potter Stewart in the pornography case, *Jacobellis v. Ohio,* 378 U.S. 184 (1964), was unable to define obscenity and declared "I would know it when I see it."

kids here because you sent them here or, you've spent money here, you've provided support for the mother while she was pregnant or you provided support after the child was born even though you had no obligation to do so by court order, but you did provide support. We see the special factual situations one through seven, that's in the long-arm statute, plus an eighth provision that's "well anything else that seems constitutional that you think would be fair to order child support." Those things would justify making this child support order against somebody who doesn't live here in this state. So that's what we say and what the Europeans agreed to. Other countries are there, but the only countries that matter other than the European countries are Russia and China. The Russian position is "we can't possibly agree to that," so you know where they are. You don't really have to worry about agreeing with Russia because after all "we can't possibly agree." The Chinese were a little bit different in that well, "we could agree if." Then you're trying to rope them in with the "ifs."

That's how I got to be an international star or non-star. For the first two years, I had a real role in assisting until we reached an agreement that the US could be included because we could make judgments that what the order in France, Germany, wherever, when it was rendered if they had a long-arm statute it would have applied. So if the parties all lived there, that's enough. They all live in France and then the guy comes here, well that's obviously good enough. If the relationship between the would-be obligor fits one of our tests of the long-arm statute, then we will enforce it even though the French court paid no attention to that, they don't care because all they care is the kid lives here in France, and therefore we have enough authority that we can order the parents, whether there is one parent or both parents live here in France, we can order the absent parent or parents to pay child support because the child lives here and that's sufficient to sustain. And, that's the rule pretty much in the rest of the world

but us. With us, we have to have a connection with the obligor as well, and so the agreement was, for us, that they will accept the fact that we will enforce their orders if we, in examination, discover that if they had applied US law we were fine with it. When the obligor isn't there, we're fine enforcing it, even though he lived in the United States when this all happened but there was a connection with him to France.

France is probably a bad choice as opposed to using Germany because with Germany we've got all those soldiers stationed in Germany, and they're always having children with German women, sometimes their wives, sometimes not. In any event, the kid's going to be living in Germany and the serviceman is now back in the US and the German mother now wants child support. She's going to get an order and she's going to get a German order because that's where she lives and now that German order will come to the United States for enforcement. We would say, among other things, well the child was born in Germany, he fathered the child in Germany. That's a perfectly good affiliating factual situation to make him pay child support and we've agreed to that and we will do so.

The last three years were less crucial for me to be there, to say the least, than the first two in that everything that I had a hand in helping decide had been decided and agreed to so at the end of the third one I said I'm not coming back. Then the fourth and fifth, I came back and my wife loved going back. She always went along and she was a supernumerary member of the delegation and having a great time spending a couple weeks in The Netherlands for five years in a row. So The Hague is another one of those old hometowns for us.

At The Hague there was a big ceremony, champagne and so forth, for signing the Hague Maintenance Convention of November 23, 2007. US signed, the members signed, everybody signed, but

the US signed officially which meant that the administration, then the Bush Administration, was committing the United States to make all due efforts and take all due diligence to become, put the Hague Maintenance Convention into force. That was 2007 and so as we speak I just got back in mid-March from Heidelberg Convention and Conference in which the movement towards the Hague Maintenance Convention was really, really rolling. It's now in force. It takes two countries for the convention to go into force, by its terms. The important and final country, not a member of the European Union, Norway, ratified it two or three years ago.

Two more countries ratified it to put it in force effective January 1 of 2013. So effective 2013, although I'm not sure that all of the deposits and so forth have been done, there are three countries that this 2007 Convention is now in force in: Norway, Albania, and Bosnia-Herzegovina. And, kitty bar the door, there might be another country coming along any time now. The European Commission may act soon and the 26-27 countries in the European Union will all become members of the Hague Convention. Congress, in its efficiency, will act immediately — this could end right there, just a long pause. Congress will act immediately dot, dot, ellipsis. And the professor stopped talking.

MB: [Laughter]

JS: As of now, there is a bill pending in Congress to move forward. The Hague Maintenance Convention is not self-executing. None of the Hague Conventions and none of the conventions for us are self-executing. Some countries, if they sign a treaty it becomes the law of the land and it enforces itself by being the law of the land. With our Hague Conventions, and we're signed up with half a dozen or so, the Adoption Convention, the Abduction Convention, and there's a half a dozen or whatever that we've signed up, they don't enforce

themselves. There has to be some mechanism that Congress enacts or the states enact that say here's the court you go to. Here's how you get it enforced. You have to have a place, there has to be a system whereby you can look to the federal law or state law that tells you how to enforce it.

Now some of the federal law, for example, will in effect incorporate the text of the Convention into the federal law, that is as provided in the Convention and the law will say that, "you shall." But, the Convention won't tell you what court to go to or what the damages might be or whatever the details are so you might have to put some of that in the federal law or the state law. The way it's worked with regard to child support enforcement as a general proposition is that Congress has relied on the states to pass the law so the Uniform Interstate Family Support Act is only state law. The only thing about the federal law is that it says you have to pass it and there's no handle where you have to pass this treaty and if you don't, what? Well, with child support, there's heavy federal subsidies. So if you don't pass it, we can take away the subsidy. Whereas telling a state to have to pass a treaty when there's no handle like that, the state says we don't want to and then it's not enforceable. The Congress has to be careful that in certain circumstances they have to pass a federal law and there are some in which it is by federal law but the text of the Convention is included by specific reference in the federal law that is as is provided in this particular Hague Convention. That's not the case with the child support and would not be the case in this situation.

I come back in 2007 and it was in November. I somehow managed to just go for three weeks and be gone and had people cover my caseload, class load and I was off there with my wife. Going to The Netherlands in November is not the same as going in May or June when we went the other times and much nicer. Tulips are much more in bloom in April, May, and June than they are in November. So

I come back and what to do? UIFSA 2008—the powers that be in the Uniform Law Commission decide that "well, it only will be written to incorporate the Maintenance Convention, no fixing anything else. So guys, we got to rush. We got to get this done in a hurry. We got to get this done not only this year but, gee whiz, this year because in sort of one fell swoop when you get back here in 2007, you have 2008 to get it done because the Bush Administration will be out of here and they're going to probably act because they promised to take all due diligence to get it into force so they're going to want to have a law."

There I am working away as soon as I get back on UIFSA 2008, just to incorporate the stuff. And I did. So UIFSA 2008 is created, sort of in a hurry. I went to Big Sky, Montana, in July of 2008 and the commissioners voted on the new version and there it is. It's been enacted by several states conditioned on the federal law, which is too bad because they could just pass it and all those provisions about if we're a Convention country, all those provisions don't apply until we are one. As soon as we are one, then they will apply. So you could pass the act now but, I think, all of the states that have enacted it have enacted it conditioned on the convention going into force.

Here we are now five years later and counting. What will happen is if something happens this year, the Congress will pass a law saying, states, you must enact it by 2015. Probably they might even say by January 1 of 2016. That's the way they did in 1996. In 1996, under the Clinton administration the Welfare Reform Act was dead and buried and then it came back to life, resurrected, and passed. We met in July of '96, Congress was meeting and "the Welfare Act is dead." We promulgate the '96 version because the employers wanted this extra detail about how to withhold. Congress then acted in August said that you have to pass it by January 1 of 1998. The reason is that many states only meet every other year, like Texas. We're not the only one. If they act this year, it would be pass it by

‘15, by the end of ‘15, so by January 1, of 2016. If they wait until next year, ‘14, they can still do the same.

That’s my international exposure. It’s not very heroic because I was bored the last three years, the least important years. If it weren’t for my wife, I wouldn’t have gone back, but she loved being there. Two weeks, all expenses paid, more or less, for a vacation in The Netherlands - you can learn to suffer. There was some suffering because those meetings are usually boring.

I urge you to go over to the Legislature when they’re meeting and sit in the gallery. You will discover boredom and you will see people sitting there, almost all guys, all in suits, sitting there day after day, week after week, up in the gallery just like you except that they’re getting paid for sitting there and it’s boring. Being in the Legislature on the floor is boring because how many things are you interested in? A dozen? Fifteen? How many? You got a hundred topics of high interest for you? No. Well, they have a hundred topics where somebody’s interested. They have to pass a bill on it and you’re supposed to vote on it and listen to the debate about it and go to committee hearings, the committee hearings that you are assigned to and you might be assigned to insurance. Know anything about insurance?

MB: No.

JS: Wanna?

MB: No.

JS: What if you’re assigned to it? You’ve run for office, you wanted to be here in the Legislature. You have to do your committee duties. You look like a person who could learn insurance, and you will be bored to tears. I’m over there, and I’m interested in family

law. There are two committees that handle family law except that neither of them handles only family law. They handle a wide variety of things called Jurisprudence and Judiciary which will mean a lot about the courts and how much, whether there should be a court, another extra court in Dallas. Should Austin have another? Am I interested whether Austin should get another court? No. Do I plan on running for it? No. That whole process is very difficult to find entertaining except for those little things that you are interested in.

MB: As we wrap-up, I wanted to ask you what changes in the law school over the years do you think have been the most significant? Also, do you think that law students and the study of law has undergone changes?

JS: Well, the changes are phenomenal in so many ways. First of all society has changed so much. In 1970, hardly any women. I graduated a few years before that from Minnesota. In my class, we started with 254, eight women. We graduated 159, so that's almost a hundred missing, four women. The average woman in law school was a well above average student. My class was not so distinguished as the class in front of me, where they had six or seven and all six or seven were on *Law Review*. We had four and no women on *Law Review* in my class. By the time 1970 rolled around, there was five percent, maybe, probably not, but certainly no more than five percent. There might have been 20 women. So that's a huge difference.

It seems to me there were fewer older students in 1970. When I was in school, there were quite a number of older guys in my class, including me. That was part that you had other businesses or you'd been in the military service. My young life was, you were either going to be drafted or you were going to enlist in something. For the most part, you would at least be trying to figure out how not to get drafted. When I was of draft age you either were drafted or you joined the

National Guard, basically. Or you had some way of getting out of it. In those days, there was some chance that they wouldn't take you just because they didn't need you.

In any event, that's all changed and gone away and was still part in 1970. In 1970, the Vietnam War was still going fairly strong and didn't end until another few years. There were no computers, there was no Internet, there were no cell phones, so all the electronic wizardry we have now wasn't here. The production of things was you might almost say Stone Age in that when I practiced law if a mistake was made the page had to be retyped to get it out. You couldn't send a client anything that had white-out on it or made a correction of any sort. If you wanted to edit something and you missed a paragraph that should be in here, you might have to type many, many pages over and over and over again, typing, typing, over and over again. So 1970s you know, you're talking about the Middle Ages compared to now. People all read books. Librarians know about how people used to read books.

The teaching of courses was the Socratic model. That's why me, being hired at the beginning of 1970 to come in September of 1970. I thought that there should be more practical education and Dean Keeton had already started a clinic that rivaled the Legal Aid Clinic financed by Washington and hired a couple of people to run it. He then decided after the first year that it really couldn't be done that way without a classroom component. Now, whether that's true or not because the school decided, not me. I came with the system of you'll have a classroom component and you will teach the classroom component. How will I teach the classroom component? Well, that's for you to figure out. How do we know how to teach a classroom component? None of us have done it and none of us want to do it. You say you want to do it or at least you say that you want to be involved in clinical legal education. So you're being hired to do

that and we're hiring you on a tenure track. You will have tenure track obligations and you will teach regular courses, but you will also teach a clinical course. You'll still teach, but instead of teaching two courses in the spring and two courses in the fall, you will teach one regular course and one clinical course in the fall and the same in the spring. You figure out what that means. That's how I got assigned to teach family law and got assigned to create something that looks like a classroom component in the Legal Aid Clinic. The Legal Aid Clinic had housing cases, they had consumer protection cases, and they had family cases and well, you have to teach something out of all of those. It started out with that and that was too ambitious. Ultimately, I wound up with just teaching about family law cases.

Then they started adding clinics and now we have 17. In those days, the vast majority of students could not have a clinic. Now, the vast majority of students can have a clinic. Now that the classes have gone down in size so significantly, you'd have to say that the 17 clinics could almost ensure that every student had a clinic if every student wanted a clinic. Now, every student who wants a clinic can take one and many students can take more than one. A lot of students aren't interested in clinics and a lot of students are only interested in clinics. That's a revolution. The whole idea of what law school is and does is in flux and continues in flux. I like to think that I have not been much of a recruiter for other people to do clinics and the two people who were most involved in the clinics here were me and Bob Dawson who did the Criminal Defense Clinic. He got a system where he could handle a lot more students than I could, although I did have classes of 20 for a while. That's too many and I didn't have the caseload for it where in the criminal law. They did have a caseload and they could handle 20 or more cases in a semester.

I made my contribution by, I guess you'd say, example with regard to having a good clinic. My one seminar is unique in the

Legislative Process Seminar, you have to be working over in the Legislature and you have to write. Your writing seminar is about pending legislation rather than an abstract legal problem. I've seen a lot of changes and I've helped a bit, anyway, in shaping the change because the change has really been very dramatic over the years to go from Socratic course after Socratic course and blue book exam after blue book exam into such a wide variety of ways to examine people and ways to get them interested in course work. Of course, in the second or third year especially, it's very difficult to continue getting them interested in case books.

MB: Well, that's all my questions.

JS: Okay.

MB: And I've enjoyed our time and I appreciate your taking your time to talk with me.

JS: Well, this is part of the job.