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Herbert. A. Johnson Oral History Interview

Interviewee: Herbert. A. Johnson

Interviewer: Andrea L'Hommedieu

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Andrea L'Hommedieu: This is an oral history interview at the University of South Carolina, at the South Caroliniana Library on February 2nd, 2012. This is Andrea L'Hommedieu, and today I'm doing an interview with Dr. Herbert Alan Johnson. And Dr. Johnson, I'd like to just start by asking you when and where you were born.

Dr. Johnson: I was born in a very nondescript place called Jersey City, New Jersey, and that was on January 10th, 1934.

AL: Did you grow up in New Jersey?

HJ: Yes, until I went to college at seventeen, and then my connections after that were primarily with New York City. But from birth until seventeen, yes.

AL: And what were your parents' names?

HJ: My father was Harry Johnson, my mother was Magdalena and her maiden name was Diemer, and they were married, I believe, in 1931.

AL: Did they also hail from New Jersey or had they come from other places?

HJ: My father's family was in the Bronx until about 1923, '24, and my mother was from Brooklyn and they lived in Brooklyn until probably about 1930 and they moved to Baldwin in Long Island.

AL: What did your parents do for work in those years?

HJ: My father, God bless him, was an accountant, of all things [HJ explanatory comment: This sounds rather dismissive and judgmental. My father wanted to become a cabinet-maker in his young adult years, but after his military service in WWI, he took evening courses in accounting at New York University, and became something of a specialist in the relatively new field of corporate income tax.] My mother, of course, was a housekeeper for most of that time, but her training was essentially in commercial work, stenography and bookkeeping also.

AL: And did you have brothers and sisters growing up?

HJ: I have one sister who is a housewife. She was trained as a stenographer also and is living in Las Vegas. She was widowed about ten, fifteen years ago.

AL: So what was Jersey City, New Jersey like in the thirties and forties when you were growing up?

HJ: Well, it was a wonderful suburb. It was one of those bedroom suburbs of New York, and we lived in the Greenville section. I tell people I've always been in the South, because I was raised in the southern part of Jersey City. It really was pleasant, really not suburban. It was closer to being an urban area than a suburban area, but within very close contact to New York. We could get to downtown Manhattan in roughly an hour from where I lived, so that was very convenient. The city has changed a great deal since I was young. I think it's been gentrified in some areas, and the section that I lived in, the Greenville section, has pretty much become a bedroom suburb for New York City again.

AL: And what did you all do for social activities when you were growing up?

HJ: Social activities, well, I guess I come from a different generation, we almost had nothing to do with girls until we went to college, but I was very active in the Boy Scouts and that pretty well constituted my social activities, with the exception of church and the usual things that children do.

AL: Did your family access the arts and culture of New York City at all growing up?

HJ: They did, and when I was about twelve I got my permission to travel over to New York and do it myself, so a lot of my friends and I spent quite a bit of time traveling through the city, to the Bronx Zoo and the Metropolitan Museum of Art. We also spent a lot of time in Central Park, bird watching, things of that sort, so it was a very active kind of connection to New York, which of course a great cultural center. That's something that basically I enjoyed also as a college student there, so it was a great part of my education. My father also had a pretty big library in the house itself. A number of my friends would come and borrow books from his library.

AL: What were his interests, aside from accounting?

HJ: He had a huge collection of *National Geographic*, he had a lot of novels, James Fenimore Cooper, for example, is something I read almost before I had to read it in high school, I guess that was in high school we were supposed to read that. *Ivanhoe* and *Scott*, a lot of the novelists from the nineteenth and early twentieth century, quite a bit of history in that library too, I think. In fact, one of my friends who is a historian at Carnegie, a university in Pittsburgh, said he really loved that library, he borrowed a lot of things from it. So that was another area where I certainly profited very early. And it was right next to my bedroom.

AL: Now education wise, what were the schools like that you attended in your early years, before going to college?

HJ: I went to what was probably the best public high school in Jersey City, which was Lincoln High School, and I think it was a very good education. I subsequently learned that certainly students that had gone to private schools, private grammar schools, had picked up a great deal more in terms of literary knowledge, in terms of training in languages and things of that sort, and in that sense I had a lot of catching up to do in the first year of college, a great deal really of catching up. In fact, my life has been catching up in many ways, but that certainly was probably the best high school I could have gone to in Jersey City, from public schools standpoint.

AL: Well you later went on and studied both law and history. Were any of those interests evident during your high school years?

HJ: I don't think so. I was interested in going to medical school, and that interest persisted into my sophomore year in college where I was getting C-s and B-minuses in the sciences and A-s and B-pluses in the humanities generally, and specifically in political theory, that is "contemporary civilization" at Columbia, and there I had Peter Gay as one of my instructors for one year, and of course he was very prominent in the area of the history of the Enlightenment, and that sort of triggered in mind that certainly I belonged someplace else. I'm also color blind. It's very difficult to see the color of precipitates when you can't see color that clearly, so chemistry was getting difficult even in qualitative analysis. I'm very happy I switched to law.

AL: I note also that your birth falls within the beginning of the Great Depression. What memories do you have in the early years, or memories of your parents talking about their experiences?

HJ: Almost nothing. Basically my memory probably starts at the age of five, a little bit earlier. I have memories of going to the Adirondacks, which would have been in 1938, of the World's Fair in New York City which would have been 1939, and specifically very clear and vivid memories of the Declaration of War in December of 1941. But earlier than that, my parents really never spoke very much about the Depression. My father was fortunate to keep his own job. My impression is that he was so grateful for having employment during the Depression that he was really very devoted to the company that he worked for and continued to be right until they finally were disbanded, or stopped doing business about 1958, '59, 60, something like that. So it was certainly a traumatic experience, even though we were not really badly hit by the Depression as a family.

AL: What was the 1939 World's Fair like? I mean, what sticks out in your mind?

HJ: The 1939 World's Fair, of course the German exhibit was fabulous. Hitler had made sure that he staged a very elaborate exhibit there. And the Italian exhibit was likewise a very colorful exhibit. The others were, I would say, more pedestrian in their presentation. But of course the

fair itself was rather—how would I put it? It was kind of an anti climax, because war was declared in September of '39, and this is history, this isn't my recollection, and of course the countries that were represented at the fair were in a neutral country at that time, the United States, but there certainly must have been a great deal of animosity there so that was coloring the thing a little bit. But for New Yorkers it was a wonderful opportunity to go and see all the new things in the world, the new inventions and things of that sort. So it was a great thing to visit and I was dragged there on frequent occasions I would say.

AL: And so you go away to college, age seventeen, Columbia, can you talk about your education and some of the influences you had during that time?

HJ: Well I mentioned the general education that they insisted that we have, which was basically a very deep immersion into humanities, going back to Classical materials which I'd never read. And the contemporary civilization basically started with the Medieval period, the philosophers and documents of the Medieval period. I would say late Medieval though, not early. The overall impact of that really was to give me a very broad knowledge of Western civilization, which it was intended to do. They've subsequently amended that to include Asian materials and an entirely new emphasis on a more global approach in the last fifteen years or so.

I think I got a very good education. One of the things that happened after I was moved from sciences to the humanities was to take a history seminar with Henry Graff, who offered an undergraduate seminar that was basically in the graduate faculties, and I wrote a paper at that point on the imposition of martial law in Hawaii in the 1940s, and I think I got a nice grade of B-plus or something like that. But it was the first really serious historical research that I had done and I really enjoyed it a great deal. Of course I didn't have very many history courses in college, I only had about six credits of history when I went to graduate school. Again, that was because of the emphasis, and as you know, I left the college early and went to law school in my fourth year of college work, so that I really only had three years of college. I probably would have benefitted a great deal if I took that fourth year of college, but at the same time it meant that I could move into law school and I enjoyed the first year of law school a great deal.

I was far too naive to become a law student at the age of twenty. I remember courses where they had cases and so on where they talked about checks, and I had never written a check in my life and that puzzled me a great deal. And a couple of other courses talked about mortgages and I'd never seen a mortgage or read what the terms said, and in that sense it was very difficult to understand the legal principles when you didn't have the practical hands-on experience of living an independent life. So in that sense I think I was too young to go to law school at twenty, but you don't turn down that opportunity if you can do it.

AL: So you went through law school, very young age, and then you pursued the master's and a doctorate in the field of history?

HJ: That's right. Actually between the time I graduated from college until I finished my Air Force [p/o] [tour of active duty], which was in September of 1957, and then I went back to law school but to New York Law School rather than to Columbia. There were almost no

scholarships or fellowships at all at Columbia for law students. And of course I had married in the interim and basically I was going to go to law school at night rather than during the day session and they didn't run a night session. So I transferred to New York Law School and finished there in 1960.

AL: So you left to be in the Air Force. Did you serve?

HJ: Yeah, I had two years in the Office of Special Investigations of the Air Force, and as they're about to do again, they were downsizing in the summer of 1957 and I was able to get out about two months earlier than I would have normally been discharged after two years of service. So that was nice, but at the same time meant I couldn't get back into law school until the following semester which would have been January, February of '58, and that's why I took some courses at New York University, in the business school, learned something about accounting for the first time in my life, which has been very valuable but I'm glad I was not an accountant.

AL: So then you're back at Columbia University for your master's and doctorate, and it was both in American history and European comparative law. So this is where we're really seeing you meld that history component and the law component together at a very high graduate level.

HJ: Yes, I would say I probably was more interested in going into law practice at that point than to going to academic work, and one of the difficulties that developed was I developed a physical condition by the end of this time. Basically I worked eight hours a day at the bank and then went to school at night, which was fortunately just about a twenty-minute walk up Manhattan to go to school. But you get home at about ten or eleven o'clock at night, and then get up to go to work the next morning, it was getting very difficult even at the age of twenty-three and twenty-four. And when I finished and was admitted to the New York Bar, my wife said well, you're father's given us these war bonds for whatever we want to do. Why don't we send you to graduate school, which was, okay, we'll try it. I mean, I had nothing to lose but a couple of thousand dollars worth of war bonds.

But when I went to graduate school I thought, well I do want to take courses with Richard Morris, who was a man who in the thirties had begun to write about American legal history in a slightly different way. Actually you'd say it was a comparative way, because he covered all of the Colonies; one of the first people that wrote about the status of women in law, which, who cared about that in the 1930s? I mean, women didn't count for anything in terms of historical research at that point. So as a practical matter, he was really one of the pioneers in terms of being a legal historian but not being a lawyer. His training in law was strictly what he read and what he had been able to pick up sitting in on courses, he'd never really gone through a full course and there was no other way of getting the training except to go through the full course. So in my master's program I had a seminar with four or five doctoral students that he was working with, and this stuff is fascinating. History generally, but legal history to me was very interesting. And so I wrote my master's [essay], as I've said to people, this is a title that everybody just runs to buy, it's *The Law Merchant and Negotiable Instruments in Colonial New York*, which won a prize and so it was published in 1963. So at that point I was pretty well set that this [was] what I wanted to do. Fortunately I got a job as a research assistant on the [John]

Jay papers in 1961 and stayed there for [p/o] three years, until I got a fellowship to finish my doctoral dissertation. So it was one of those strange career patterns that most people don't follow.

AL: And so you never went into the practice of law, did you?

HJ: It was a very useful thing to have because I did get some cases referred to me by lawyers and I was able to make a little bit of money, which graduate students always need. Again, there was no fellowship money until you were ready to write your dissertation. So I did practice on a part time basis while I was at graduate school.

AL: But that never went into your career full time.

HJ: No, just enough that if you hired me to litigate a case for you I know enough to make a mess of it, but I wouldn't know enough to win it. So it was the kind of thing where [p/o] if you are going into full time law practice it takes a great deal of additional training to get you up to speed to really be able to do a good job for people. And I was willing to do that, it's just that at the time I was much more fascinated with staying with the academic work and working on the history of law.

AL: Now, your first job in academia is you lectured at the City College.

HJ: At City College. Through the university I got a job teaching the American history survey course at Hunter College in the Bronx, which I think is a very valuable place to begin. Toward the end of that period, from 1964 through '67, I had a seminar on the impact of industrialization on law from roughly 1500, 1400 to the nineteenth, twentieth century, and had about six undergraduate students and some of them I'm still in touch with. But it was an interesting seminar because it was such a broad topic to cover, and there were students that specialized in European history and in American history so that there was a nice interchange of viewpoints that was helpful. And I kind of loved that seminar; I thought that was a great thing to teach.

I did teach a good course in the graduate faculty at City University, and I was rather struck with the youth of the graduate program, because I got my doctorate in June of 1965 and they immediately put me into teaching a graduate course the next semester, but they were just in the process of starting and each of the colleges was trying to bring people on board that would teach specific areas and hopefully get on the graduate faculty at City University. But again, that was an interesting thing to teach. I had about twenty students that were taking the course, and again, I enjoyed that. I taught the first half of Constitutional history, which ran through the beginnings up until 1865, and that was a lot of fun.

AL: So you're on the faculty, you're teaching, but you also reach back and say, oh, about 1961 you developed an interest or an association with the American Society for Legal History.

HJ: That's right. That would be about 1961, I think.

AL: How did you become interested in that?

HJ: Well, when you're in graduate school one of the really big problems is to get in line with the profession and what's going on in that particular field. Legal history really had been sort of slumbering for about, oh, I would say twenty to thirty years. There was a big spurt in writing legal history in the 1930s, and then it sort of slowed down because of WWII, but also I think because the interest of those people who had written legal history shifted and there really was not much legal history being done in 1960. That amount which was being done was being published in the *American Journal for Legal History*, and at that point I knew, because of the *Journal*, that there was an American Society for Legal History.

As a practical matter, it was a very small group. At that point it really was very much directed toward practicing lawyers and judges. In fact, when I applied to be a student member of the Society I was told that I couldn't be a student member because I already had my law degree, which struck me as kind of strange at the time. But simply, they were geared to the legal side of education rather than the liberal arts side of higher education, and quite honestly that's what the Society was like up until 1970, it was basically lawyers who had a passing interest in historical things, and a few academic [law] professors who didn't publish in the *American Journal for Legal History*, they published in their law reviews. So it was very much a professionally legal Society rather than an academic broad-ranged group that included historians.

And then of course at the same time, give or take a few years, I joined the Selden Society, which is the big English legal history society that publishes volumes of court records and translates from either Law, French or Latin, to English so you can read the records, the yearbooks, in English, so that was the other society that I joined fairly early. Somewhat later there was a Canadian society for legal history established and that sort of died on the vine. Canada really is a very small nation. It looks big, but in terms of its [] [population] it's small. Today I would say most of the Canadian legal history is done in conjunction with the American Society of Legal History. They come to our meetings, we've had annual meetings with the Canadian members, they've sponsored annual meetings in their cities and so on, so Canada has kind of—they do have the Osgood Society which is dedicated to publishing books and some source materials on Canadian legal history on the English side, and then there's a similar society on the Quebec side. But we have a good, close relationship with the Canadians at this point from the American Society for Legal History. But again, that was something that I joined fairly early, I would say probably by 1965, '66.

AL: And so if we move up to 1970, and you became the executive assistant to George Haskins, who was the newly elected president of the Society at that time. How did the two of you meet?

HJ: Well, at the time I had moved from teaching at Hunter to the Institute of Early American History and Culture in Williamsburg and I was editing the papers of John Marshall. George I think probably from '67, '68 was a member of the Institute council, and that's when I met him. And of course he had just published his *Law and Authority in Early Massachusetts* in 1960, so he was well known to American historians at that point. I don't have any kind of a vivid

recollection of talking to him about the American Society of Legal History or anything like that, but it was quite unusual that he was elected president. It [wasn't] hard. You just simply, if you're available, you could be elected president at that point, and it was really a job that Erwin [C.] Surrency, who had been president for four years, probably just sort of now and then did something presidential but there was no real administrator requirement or anything like that.

George was at the time busy writing the *Holmes Devise History of the Supreme Court* on the early fifteen years of the Marshall court, and I think he had taken the [president's] job with the idea that it would be something that would be nice to do but didn't want to spend too much time on it. So he was looking for somebody to do the scud work, and I was really so impressed with him, and also with some of his thoughts about the way in which the Society could go, that it seemed to me this would be a good thing to get behind and help. And that's when becoming the executive assistant became a part of my life, in 1970.

AL: And what were some of those ideas he had for changing the Society's direction?

HJ: The main thing was that he was anxious to have the Society become a member of the American Council for Learned Societies, which of course is the overall umbrella for the humanities in American scholarship; it's the big national keeper of the humanities groups. And initially we thought that was kind of an accreditation, kind of an acceptance of joining the big boys in the profession. As it turned out, it's much more than that. It provides a much broader view of scholarship generally. It's concerned with issues of publication, it's concerned with problems of society administration or society funding, or the way in which societies grow and so on, so it was a very valuable contact and membership to have.

George himself was trained in sociology. He was a [junior] fellow at Harvard after his undergraduate work, and while they don't get PhDs they certainly [get] the equivalent of PhD training. His father of course, Charles Homer Haskins, was a prominent Medievalist, and George himself did write in the late Medieval period as well as in American, so his background was very vast and his contacts in the academic world [were] on both sides of the ocean. [p/o] [He was also a fellow at Merton College, Oxford, in the years before WWII]. He was enthusiastic about the Society, but he saw that there was a great deal of need for improvement, particularly in the area of attracting political scientists and general historians, and even literary scholars who were interested in law as a—and this is before law and society, or law and literature were accepted courses in law school. So he had a broad view of what kind of training a lawyer should have in addition to the nuts and bolts of law itself, and that I think is why he wanted to become president.

But at the same time, how much time can you devote to it, because that brings us into one of the big topics, how you get one of these things started, and it's really not easy. We had about, I would say, a core group of maybe five or six people that worked with us, but most of the policy-making was George's. And my input really was a question of saying well, this is what the historians are doing, this is where the historians are emphasizing. Legal history was changing itself at that point. James Willard Hurst in Wisconsin had started to look at law and society, which is the modern thrust of the whole American Society for Legal History today; they've gone

over to that almost completely. George and I were both institutionalists, we didn't care about society. We cared about the law itself, how it operated institutionally, how it was built, the way in which cases were resolved, the way in which jurisdiction was divided between courts and so on. It's the stuff that my wife says is cryingly dull, nobody would want to read except the wife to see whether you've made a mistake.

So, one of the things that he brought was an openness to that kind of approach to the law, which of course attracts a great number of historians. And we were lucky we recruited Milton Klein. Both of us were introverts, and introverts don't build organizations, extroverts do. Milton was a wonderfully open, happy conference-going historian, and to him more than anybody else, is attributable the way in which the Society flourished. I mean, we went from a society of a hundred members to a society of close to a thousand within the course of say five or six years, which [] [George and I] didn't do. We just picked the right person and said would you please? Oh, sure.

AL: So he did a lot of outreach in terms of knowing who to ask and asking and bringing them on board?

HJ: That's right. It's just a matter of personal contact, of making people feel welcome. And of course simultaneously we had working with us the requirements to become members of the American Council for Learned Societies, which meant we had to have an annual meeting every year at which papers were given and so on and so forth. We had to have some system for publication of research, and again, that was something that had to be dealt with before we went forward with the application for membership. There had to be some way that we communicated with our members in terms of newsletters. This is before e-mail and before all the modern electronic things, this is where when you communicate you put a stamp on an envelope and you mail it out to people.

So one of the big things here was that at that same time Milton was recruiting people in terms of a very active membership campaign, we were beginning to work on these other things. George gave me the job of organizing the first annual meeting in 1971. Mind you, he's only been president for a year and six months [or] seven months, when we had our first annual meeting in October of '71. So that really brought it together and of course my job was to find people to speak.

Well, again, his contacts were essentially with lawyers and law professors. I was able to find people in European legal history and English legal history, and in American legal history from the Colonial period to the nineteenth century that were either writing or in the course of writing or in graduate school and so on, and we put together a meeting in October of 1971 and apparently it went fairly well. I was not there. I got a grant to do some research in London, so Milton Klein took over. And Milton never forgave me for leaving him holding the bag for the annual meeting.

Obviously you don't have a program committee, you don't have a local arrangements committee; you don't have all of the staffing that a large society has so a lot of this work has to be done by

the officers or by the executive assistant. But essentially it worked and it clicked very well. I think we were lucky in so many ways but it did work, and we were not only able to build membership but also build the kind of enthusiasm you get from having an annual meeting. And also, we were admitted to the American Council for Learned Societies I think in 1973.

AL: So not too long down the road. And you're continuing this exponential growth then, and continuing into the mid and late seventies probably?

HJ: I think it stayed fairly high in membership until probably even into the eighties.

AL: What sorts of growing pains did the Society experience with the large growth, or did they?

HJ: Well, you're in charge of a larger piece of real estate. Somebody wrote to me once and said it's like when the owner of the condominium lives in the fantastic apartment on the top of the building he's the one that gets all the complaints about the plumbing breaking first. You're dealing with a group of people that basically have quite disparate interests. A political scientist wants a certain kind of paper given at the annual meeting, an historian is more interested in the interaction between law and society, the lawyers want what we call the hard core legal history, the institutional stuff, like how do you bring a case in seventeenth century England when you have this choice of courts to go to, which one do you pick and why, what's the relative advantage of going to one or the other, that kind of thing. Even today, every so often somebody who's new wants to throw a rock through the window and open a discussion of whether lawyers should write this or historians should write this and who's qualified and who's not qualified. And that kind of tension I think is, to some degree it's useful, but also it can be very destructive and you just have to be very careful that people don't feel that they're being excluded. And as the thing gets larger, you can exclude more people, or seem to exclude more people.

But it's been interesting I think. I was elected to the board of directors in the 1990s, had a three-year term there, and it was interesting that the Society has operated, essentially as the board of directors and the officers operate --- kind of a managing overall planning group and they never get their hands dirty with the nitty-gritty. Well, unless somebody really messes up at that level, it's sort of a business as usual operation at the board level and the official level, which again says that the way in which these societies operate is at a very grass roots level within the society, and that's very valuable I think, to have that. We have that. So a lot of work was involved in just making sure things were done. If something wasn't done, catch in time to rectify it before it did serious damage, particularly annual meeting or something like that. And that's the kind of concerns we had in the early years there.

AL: Who was it that worked with you and Professor Haskins in the administration after January of 1970? I know that you mentioned the extrovert in the group.

HJ: Milton Klein.

AL: Yes. Were there others that played essential roles?

HJ: I knew you'd ask me that question so I basically kind of listed them down. John Cushing, who was the librarian at the Massachusetts Historical Society was the chair of the publications committee for many years, and was interested in publishing court records. John also was active in the publications committee, as I said, and very, very reliable to do a number of things that George wanted him to do.

John Reid was the treasurer for I think at least four years, maybe a little bit more. John, again a very interesting historian, a man who basically wrote about the mining camps in California and law that prevailed there, and the law that prevailed with people on the Oregon Trail and moving across the country, the way in which they developed their own independent systems of law, because they were out of touch with any kind of territorial institution or anything except their own devices.

I mentioned Milton Klein. [Robert M.] Bob Ireland at the University of Kentucky was the person who succeeded me as executive assistant, but [] several years [later he] served as treasurer of the Society. And then [William F.] Bill Schulz at the University of Pittsburgh Law School was the secretary for many years. Bill was an interesting type, he did all things well but he didn't like to go to meetings, and so I frequently would represent the Society at the annual meetings of the American Council for Learned Societies and picked up an awful lot there in terms of knowing what problems scholarship faced generally and also the problems of various societies of different sizes. I mean, they ranged from a society of a hundred fifty, two hundred people, to a monster like the American Political Science Association, the American Historical Association and so on, so you got a wide scope of people there in the secretaries meetings, which were the ones I went to as delegate of the Society after I was president for a while. Those are very useful things to attend. But Bill was the secretary for many years.

And then we had some others. Bill Nelson was a new colleague of George's at Pennsylvania; Stanley [N.] Katz was very active editing the legal history series of monographs; Arthur Hogue was an English legal historian who was interested in the Medieval period but was also interested and useful for us in the publications and the area dealing with annual meetings; Jack Etheridge was a judge from the superior court in Atlanta, who was anxious to get us to meet in Atlanta and so did a lot of legwork to get that established. [Kathryn Turner] Kitty Preyer, from Wellesley, was extremely helpful in publications and so on, and probably you would say was the leading woman that was affiliated with us at this point. We were very male chauvinist I'm afraid but Kitty held her own; [she was] an extraordinary woman. Hiller [B.] Zobel [was] the editor of *The Legal Papers of John Adams*, and Hiller was vice president for George in 1970 through '71; Charles [T.] Cullen worked with me on the Marshall papers, he took over preparing the news letter for the Society; Lynn Hogue was active in the committee that in effect picked where the next annual meetings would take place and kind of working that out. So it was a group that gradually got wider and wider as time went on, but the main ones were Cushing, Reid, Klein, Schulz and then Ireland.

End of Section One
Section Two

AL: I understand that the Society began co-sponsorship of the Studies in Legal History series that was published by Harvard University Press in 1971. Can you talk about how that was arranged, and were the books in the series popular?

HJ: The affiliation with Harvard, which lasted from '71 to about '73, '74, was an interesting connection. I think it probably was worked originally through Hiller Zobel. Harvard published *The Legal Papers of John Adams*, and Hiller had worked closely with them. I was not directly involved in that, but I think another person that was involved in it was Stanley Katz, who is a person that is incredibly enthusiastic and incredibly [energetic]—at least he was, I suppose he's my age or older and he's no longer quite as energetic as he was once. But Stan went to Harvard and was very well connected at Harvard, so I think probably between him and Hiller the connection to Harvard was made. And of course George, because of his Harvard upbringing, knew a lot of people at Harvard.

The Harvard University Press did undertake to publish books for the Society. Stan was to become the editor of the venture, and we were to create an editorial advisory board [] [which] would pass on recommending books to Harvard. The first book that came out was a book by an English scholar, [Cecil Herbert Stuart] C. H. S. Fifoot, who wrote a biography of Frederic William Maitland. Maitland was sort of the guru of English legal history in the 1890s, 1900s, and lived to about 1920, and his biography is something that most legal historians would want to read, or at least know about. Again, he's an institutionalist, he's not a law and society man by any standard, but that biography was the first book in the series.

The second one was some selected letters of Oliver Wendell Holmes, and those were the first two books in a series. If I can get a list of them for you it would help. I think the books enjoyed a modest sale among the members of the Society, and of course they did have a reduction in the price of the books because of the Society's sponsorship. The problem was that the Society didn't bring money to the project, and money is the key to publication. Even in those days it cost several thousand dollars to get something into print. But again, without electronic means of publication and so on, this is not the easiest thing to do. And Harvard itself was moving more toward general purpose books, general reading books rather than scholarly monographs at that point.

And so the association went along fairly well until I would estimate around 1973, at which point they informed the Society, one, they wanted Society subsidies for the publications, and two, their board of directors or their syndics or whatever their reviewing panel was would be able to reject books selected for the series. And George wanted nothing to do with this. His attitude was I don't have time to haggle with these people at Harvard University Press, will you do it. And with a Columbia PhD I had nothing committed to Harvard at all, so one of the tasks I had was to negotiate with Harvard, and also to find an alternative publication outlet for the series.

Harvard, it was clear, was not going to back down. They wanted to control the imprint of the series, despite the fact that we had five or ten of the best qualified legal historians in the United States on the advisory board. George was not at all remiss in calling on his buddies to serve on

these boards and we really did have a blue ribbon board at that point. And they also wanted money, which of course that solved the problem, we didn't have it. It was just not available. You need a lot of money to bring up thousands and thousands of dollars of subsidies for even two books a year.

So one of the interesting things was that my connection at that point was with the University of North Carolina Press, which had gone through some difficult times with the Institute of Early American History and so on, but they had agreed to publish *The Marshall Papers*, and by that time I was the co-editor of *The Marshall Papers* and my neck was on the line because I lost the job if we lost the publisher for that series. So basically I went to Matt Hodgson, who was the director of the University of North Carolina Press, really with a loaded shotgun ready to fight for the publication of *The Marshall Papers* by North Carolina, and we ended up being very good friends as a result of that conversation. And Matt was interested in picking up the *Studies in Legal History* series, and he picked it up and I think it stayed in association with the Society from 1973 until a year or two ago, when they finally moved to Cambridge University Press.

AL: So almost forty years.

HJ: Yes, and I wouldn't even think to tell you how many books. But again, the problem really was a problem of money and book subsidies, and my friends at the North Carolina Press seemed to indicate that they really were not in a position to compete with Cambridge in terms of total number of titles per year. I mean, the Society has been fantastically successful with this. I don't know that it's been a financial success, but academically they have published of course the whole spectrum of legal history, and sometimes four and five titles a year for this whole period of time.

About seven years ago, six years ago, my college classmate Harry [N.] Scheiber, who was the president of the Society just recently, Harry started a program to raise money for the Society to create an endowment for the Society, with the idea that it will be used to give prizes to younger scholars for good work, and also to subsidize publication. And my suspicion is that probably carried the Society forward in the North Carolina Press relationship pretty far along in terms of having some subsidy money available. Whoever does the oral history for that can flesh that out a little bit more, but the point simply is that I think North Carolina Press was not able to carry the series with the number of titles that were coming out, and for that reason they moved to Cambridge University Press, which has an entirely different publication viewpoint and is quite willing to publish scholarly books. But essentially Cambridge publishes for the library market, so a book that costs a hundred and fifty dollars will come out from Cambridge University Press. Most of us don't buy hundred and fifty dollar books but libraries will.

So in a sense, the arrangement is probably the best that you could get for a society like the [American] Society for Legal History. At the same time, I was rather sad to see the association with the University of North Carolina Press end, because it's a good press and they do good work. But the titles are just all over the field, and some of them sold very well, most of them I'm afraid just simply are on library shelves. But that association I think was a very good one for that long period of time. And of course I wasn't executive assistant to the president at that point [that

the contract was arranged], I was the vice president of the Society.

AL: So the next question is about the *American Journal of Legal History* that was published by Temple University School of Law until the 1980s but was superseded as the Society's journal by *Law and History Review*?

HJ: That's right.

AL: Now, why didn't the Society launch its own journal earlier?

HJ: Well again, the answer is money. Money makes a great deal of difference. The *American Journal for Legal History* had been the official publication of the Society from the time it began in 1957 until the *Law and History* really took over in I think 1985, '86, something like that. And incidentally, *American Journal for Legal History* is still being published and is probably the journal that we would have liked [it] to have been in 1970, '71, in that it does get some very good articles, it does a moderately good job of doing book reviews as important books come out, but at the same time it seemed to be foundering in the seventies. We tried in various ways to shore it up.

George had a number of contacts with the Supreme Court, and there was one point at which he and I went to visit with Chief Justice [Earl] Warren, who was on the board of the *American Journal of Legal History*, and the chief justice was very much interested in improving that journal and basically, as a consequence of that meeting, George was able to convince the *Journal* and Temple University to [] [appoint] a book review editor who was [Alfred S.] Fred Konefsky of the *Papers of Daniel Webster*, and Bill Nelson, who was George's colleague at University of Pennsylvania because the book review editor. So that journal really began to improve fairly quickly.

Before that time Erwin Surrency, who had been very active in the Society and was editor of the *Journal* until probably 1990, 2000, something like that, had been trying to keep the thing going but it was fairly obvious that he was having difficulty getting articles and published most of his own articles in the *Journal*. It was fairly clear that he was not drawing the broad number of scholars and good scholars that we needed to have in the *Journal*, and we were interested in the seventies in getting another journal but at the same time with all the other things going on, coupled with the fact that we didn't have money, really it was not possible until much later that the board and the officers of the Society were able to work with another institution, another academic institution, to have the [*Law and History*] *Journal* edited and [] published as a separate journal. So we were certainly pleased to have that happen, but at the same time, practically, we had neither the man power, nor woman power, to do the work, nor did we have the money to support a journal and staff it and get to all the mechanics of publication.

So that was the last thing really that was important for us in terms of the way in which the [*Law and History*] *Journal* would be a good outlet for publication. Now it's killed with submissions. Its submission rate of manuscripts runs I think between two and three hundred articles a year, and from those they can obviously only fit maybe fifteen or twenty. They've recently gone from

three issues a year to four issues a year to be a real quarterly, and they've had excellent editors of the *Law and History Review*. It takes a lot of money, and a lot of contacts and a lot of staff to run it.

AL: When you were actively affiliated with the Society's business for the thirty years from 1970–

HJ: Well, I wasn't active after 1980, [that] was the last time I really was active. After that I would go to annual meetings.

AL: Okay, in terms of board work, you were on the board?

HJ: I was on the board I guess '97 through '99 or something like that, and I was the delegate to the American Council for Learned Societies from '77 to '80, but after that I've been a very enthusiastic member of the Society but really–

AL: But nothing in terms of forming policy or anything like that; just the active interest.

HJ: So you're talking about really old oral history.

AL: That's the kind we like. But during the time that you were active, I understand there was an effort to publish Colonial court records with the Irish University Press?

HJ: Yes.

AL: What can you tell us about that?

HJ: Again this is something that John Cushing, were he alive would be able to tell you some interesting things. Irish University Press was not a university press, it was a commercial enterprise.

AL: Where was it located?

HJ: It was located in Dublin, and the press was interested in getting the published court records of all the American colonies and republishing them by facsimile in leather-bound volumes and selling them as a set. Their earlier effort had been to collect the British parliamentary papers, which you may be familiar with. These are exhaustive studies prepared in the nineteenth century about sewage in England, about water supply, about public health, about factories, about air pollution, the list of things goes on, and these are things written by parliamentary commissions specifically delegated to address these various things. A fabulous source for all areas of history is what they were. But the problem of course with facsimile preparation is you've got to get a very good photograph of every page. They had very good photographers, and they apparently had succeeded extremely well and had sold enough copies of these relatively expensive sets to be looking for something else to do.

They decided that American court records were the things to contact. Now, this had been an enthusiasm of the American legal historians back in the 1930s; earlier than that it had been a selective thing. With the exception of Virginia and primarily Massachusetts and the New England colonies, most of those records were still in manuscript but those two were in print. And of course John, as librarian of the Massachusetts Historical Society, was an ideal source for the original copies that would be photographed and then made part of that series.

And so they contacted either some other legal historian or perhaps John directly and said we would like to do this. If you will let us have the printed records we will unbind them so that we can take adequate pictures. If you've ever done a photocopy of a book you know what the problem is. We will unbind them and then we will re-bind them in leather and send them back to you. And so they started on this process and the Society enthusiastically endorsed this operation, which got us to Captain Tadgh MacGlinchey.

MacGlinchey was one of these almost unique Irishmen in the sense—well I guess it's not unique with the Irish—loved to drink, knew every pub in Dublin and had frequented them. And one legal history meeting we had at Williamsburg he was delayed in getting there because he had gotten into an altercation with a stewardess who tried to take his drink away as the plane was landing in Newport News, but [an] absolutely incredible character. John Cushing, at one point the career of this project, went to visit MacGlinchey in Dublin and you can see this dour New Englander, proper to the nth degree, traveling around to every pub in Dublin with this crazy Irishman.

But what was an amusing thing turned out to be something of a tragedy because the Press went bankrupt after the books were unbound, and no money to re-bind them in cloth, no less leather, and as a consequence a lot of the books really were not in good shape when they got back to Massachusetts Historical. But it was an interesting interlude for the [American] Society for Legal History, and I think an interesting interlude for the librarian world, that you don't enter into these things unless you're sure the publisher is going to survive and do well. But that unfortunately just simply didn't work out well. It was a little bit of color.

Publications is an interesting area. One thing I didn't touch upon in the publications area and *The American Journal for Legal History*, one of the periods in negotiation with Temple University Press was that the publications committee was to go to Philadelphia and talk with them about the *Journal*. Well, the visit really, like a lot of diplomatic visits, produced nothing in terms of change in the *Journal*, but the dean of the law school, who subsequently became president of Temple, Peter [J.] Liacouras, to entertain the committee took them to a Greek restaurant someplace in Philadelphia, and this committee at that point consisted of Arthur [R.] Hogue who was a staid, independent Indiana professor of English legal history and author of a book on the Magna Carta; Kitty Preyer who was a distinguished Colonial historian on the faculty at Wellesley; and John Cushing, [all] being squired around the Philadelphia night life until they arrived at this Greek restaurant where a belly dancer was entertaining the group.

Well the Society, when the rest of us learned about this wonderful opportunity in the publications committee we decided we all should be members of the publications committee. But if you had

known the characters involved from the Society side, you would see this as one of the more humorous areas of Society negotiations. It still didn't change Temple University's view. As I said about the *Journal* earlier, it really has come very far. I still subscribe to it, there are still some excellent articles coming out in it. And the net result is we split off from Temple in the mid eighties, but as a practical matter you've gotten two outlets for legal history writing rather than one, which of course was the best of all possible conclusions, but the poor publications committee worked hard in that Philadelphia meeting to win the Society's point of view.

AL: I will note that you did talk to some degree about what you felt was accomplished in that time period from 1970 to '77. Do you feel there's something more to add than what we discussed? I didn't ask the question specifically, if you were evaluating that progress during that time period.

HJ: Well, one of the difficulties really is that for me after '77, and certainly after '80, it's difficult because there was a period of time there when I was pretty much out of anything except teaching or research. My wife was taken ill with her second bout with cancer and died in 1980 and for about three or four years after that I was busy taking care of children and doing the variety of things that one has to do to keep the world together. At that point I sort of lost contact but I did have the impression, and I think I'm right, that the Society was beginning to run like a learned society. There was no need to bail out the program committee, as I had to do one year where we were five months from the meeting and the program wasn't established. Those kinds of emergencies didn't rise for the officers to intervene and take over.

The publications [arrangements were] [] already well-established and running along regularly. The editors, if they retired or resigned, would be replaced routinely with someone of equal quality and so on because, again, you had the large number of people to draw from. And people who, because of the annual meeting and things the Society was doing, were perfectly happy to help, assuming they had the time and the inclination to do that type of work. So I do think that the hectic scramble of the early seventies had slowed down considerably by 1980, and certainly when I came onto the board in the mid nineties what you had were the major decisions that a board has to make but none of the concern with the operating details of the Society, and it stayed that way.

Essentially, one of the things that surprised me getting ready for this interview, I looked up the Society in ACLS director of societies and I discovered they claim five hundred members instead of a thousand, or close to a thousand. But they have three hundred of those members coming to the annual meeting every year, which is just incredible in terms of the way—in other words, because dues have gone up and commitments have changed and so on, you've dropped in total membership but you've dropped into a total membership that is very, very much involved, three hundred, three hundred-fifty people that are coming every year to the annual meeting, and presumably sending their manuscripts and the sending the articles to the *Journal*. So I think in terms of operations, in terms of the way in which the Society is seen and the way in which it's occupied a place in the humanities it's at a stable point. The kid has grown up, and you just simply watch it and are amazed at what it accomplishes, at least from my point of view that's what it is. I can peacefully sit back and know that it will be well run and a great organization.

AL: I know the Society has some questions that they'd like specifically for me to ask you, information they'd like to gather. One of them is if you had to make a short list what generally are regarded as your most important works?

HJ: You mean my works with the Society?

AL: I think it means in terms of your career.

HJ: It's hard to pin that down. A lot of things I've started that I have not finished, like the papers of John Marshall, I had ten years on that project and really a very active role in collecting the manuscripts, and particularly an active role in gathering the sources for Marshall's law practice. By the time I left the Marshall Papers in 1977 and came here to South Carolina that work had just started, they only published two volumes of the series. It ran to thirteen volumes, which I anticipated, I had projected that length in the early 1970s, that it would take that many volumes to cover the materials we had already collected. That series from roughly 1981, '82 on was edited by Chuck Hobson so I don't claim that as my great achievement. I basically did a lot of the basic work, and I must say selfishly the most interesting work, the gathering of the manuscripts. He had the very hard work of editing and then putting them together and getting them into press and so on. We stayed great friends over the years, and I'm very grateful to him that he picked it up and did such a wonderful job, but that's not really my great achievement I don't think. The Society itself I think is my greatest achievement.

AL: Is that how *you* feel?

HJ: Yes.

AL: In what ways?

HJ: Well, it's critical I think to realize that scholarship is very much a joint thing. I'm currently working on the career of Sir Edward Coke, and I don't know anything about English legal history. I've never looked at the manuscripts; I've never dug into this carefully. I'm stealing from the footnotes of other scholars that have done the work and I think I can trust them to be very careful and precise in their work. The Society is like that to me, too. I go to an annual meeting and if I want to learn about medieval history, as I have recently, I sit in on the Medievalists and listen to their papers. If I want to learn about English legal history in the seventeenth century I sit in on those papers. And I can always write to the scholars and say would you please send me a copy of your paper if it's not going to be published, or even if it is [not yet] published, I want to use it now to write with, I'll cite the publication when it comes out.

We've done an incredible job of increasing legal history as one, something that's taught in the law schools, and two, something that has a substantial impact in the undergraduate and graduate curricula throughout the country, and we've done that at a time in which basically [] [the historical profession] is not interested in political history or legal or Constitutional history any longer. We're the single standing bedrock for that type of study, and to me that's an important

contribution. Now, people may say, well, never heard of that guy. And that's really not important in terms of the way in which scholarship is advanced. Making journals available for publication of articles, making a book series available for publications and monographs, that is very important. That in effect has built a foundation upon which people twenty, thirty, forty years from now can build and I think that's a very important thing.

Other than that, I mean, I have done a lot of things that people sort of know about. George and I collaborated on the second volume of [p/o] the Holmes Devise, the volume that deals with John Marshall's chief justiceship, and George had me take the second part of that thing which dealt with looking at the role of the law decisions. Not the Constitutional decisions as much as the law decisions. The blackletter law of commerce and public lands and things of that sort and I wrote the second half of that and they published it in 1981.

What else have I done? I've written on Marshall, gosh, it's a cottage industry for me, articles and things on Marshall. I hope the most important thing I will do is this book or series of books on the divergence of English Constitutionalism and American Constitutionalism, from the Colonial period and the Coke period to the Declaration of Independence and the Constitution. There, my main problem is I have a deadline. Not the normal deadline that's when the publisher is waiting for the manuscript, my deadline is a real one; I have to live long enough to write it. But I think that in and of itself is kind of a fun thing to do.

One of my real heroes was Lawrence Henry Gipson who wrote a multi-volume history of the American colonies from 1748 and ended up in 1776, a painfully, carefully written book. He started at the age of sixty-five and he ended up indexing the whole thing probably at the age of ninety-two, ninety-three, ninety-four, and about six months after he completed his index he died. And I'm kind of superstitious.

AL: You're hoping if you keep going with it it'll keep you going.

HJ: If I keep going it'll keep me going. But even if I don't publish anything I think it's wonderful to be able to learn something new. And of course the trouble too is I may not meet that deadline, but I may stop writing the beyond the deadline. There's a point at which scholars shouldn't write anymore. Their judgment gets bad, and their understanding gets dim, and basically they should say goodbye and just live a comfortable life after that. And I hope if that time comes my wife, who is a good critic, will say it's about time you stopped, before a colleague catches me. But I think I have enough friends to stop me before that, too. So it's fun, and the Society's been a lot of fun.

AL: I know we talked about your first contact and association with the Society in 1961. Do you have any knowledge or heard stories about the actual founding of the Society, when that was and who was involved with the founding? Did it precede '61 by much?

HJ: Well it was supposedly done, and again, this is not my recollection but what I know from documents, it was meeting in 1956, and it might have been as early as the American Law Institute meeting which would have been in May and June of '56, someone decided they should

really start a society for legal history. In the midst of the Depression in 1934 they had done this, a bunch of law professors had gotten together and thought this was the thing to do, and I think there's almost no record of anything beyond that. But they were publishing court records, the Littleton-Griswold Fund had published court records beginning in I guess the middle to late twenties or early thirties up until the Second World War, and they've even published records subsequent to that, I think the last one was probably 1975 or '80.

So the court records have been published sporadically, but nobody had really wanted to build a society until after 1956, and that was the point in time where they started the *[American] Journal for Legal History*, I think the first issues came out in 1957. And when I joined there was a newsletter of sorts in 1961 telling you who had done what and where and so on, but nothing more than that. Joe McKnight at Southern Methodist is probably the only person surviving who was part of that original group back into the '56, '57 period. I dealt with a number of people who were still on the board of directors when I became executive assistant in 1970, but again you're talking about people that were alive and well and operating in '56 which meant they would have to be born in, well, at the latest 1930, 1935, something like that, probably long before then. Richard [Brandon] Morris was born in 1905, Joe Smith, who was my vice president in the Society, was born in 1914, so you're dealing with people who are already well into their academic careers when the Society is formed. So really, except for Joe McKnight, and he has very few remembrances of those days, they've passed away beyond oral history contact at this point. So really it's the seventies and what I consider the reform or vision of the Society in the 1970s that I know about.

AL: One of the questions is who have been some of the most important figures in the history of the Society? And I think you've talked about the major figures, but to be succinct in answering the question is there in your mind the core list of people in those early years?

HJ: I think I've given you the names of most of them who had occurred to me. I think I covered most of them for you from that early period. Again, the problem with naming names is that you miss somebody who is very important, which is an unfortunate thing. But I think I covered most of them.

AL: And you talked about some of the characters involved over the years as well. They'd like to know, what is the most humorous incident that you remember concerning the Society?

HJ: Well, I told you about MacGlinchey and the [Irish] University Press, and of course the publications committee in Dublin and the belly dancer, I think those are probably the two. I guess we're kind of a dull group. Historians are a kind of a dull group anyway. Stories circulated when I was young about maids in a hotel talking about academic meetings and they said, oh yes, historians, they're not very interesting. The other disciplines are womanizing all over the place and so on, and all the historians did was drink. Which I suppose is probably true of us. We're sort of a dull group in that sense. I suppose it's something of a Puritanical aspect of historians, and legal historians maybe more than most.

But I'm sure my colleagues can tell you all sorts of amusing things if you were to interview

them. And as I say, one of the things that we do lack is that wonderful period really from 1980 on where so many people were interacting with each other. What you really want to do in building an annual program is to get somebody who's going to fight with each other, match your people on a panel that they're going to get into a really good fight. I've never witnessed that in the American Society of Legal History. Maybe they are fighting at a level I don't understand, but it doesn't seem to be that.

Now, in terms of writing book reviews and so on, legal historians are rather known to be fairly critical. I've had a number of my books criticized for repeating the same materials again. You pick something out of a text with your computer and move it someplace else, but you left it [where you said it first], and I've had a couple of people say if this manuscript had been edited we wouldn't have had to read in two places the same material. And unfortunately with a computer it's the same verbiage too, so one of the interesting things is to read book reviews by historians. There they will clash a little bit, but that's really not humorous, that's sort of in the club joke about who's looking at things a certain way. And they've ignored some of these major issues about lawyers versus historians, versus political scientists, versus practicing lawyers and so on.

I think that's an area that we probably could devote a lot less time to, because the Society is the only one that's made differences here. The University of Wisconsin, the law and history program at Princeton, the fellowships at Harvard have all made it possible for historians to actually go to a law school and spend a year sitting in on the courses they need to learn, and we would differ as to what they should learn. But certainly the exposure to a different academic discipline is very useful, without immersing yourself in the whole thing. People of intelligence can do that without being subjected to what most of us were subjected to as law school and graduate school, or vice versa, graduate school and then law school, so that increasingly legal history has become enough of an independent discipline that we're not about to take nonsense from historians that blunder in without knowing what they're talking about. And likewise, historians are not going to tolerate lawyers who have no concept of the parameters of influence on the way in which law develops. So I think that's a very valuable thing, but again, it's not humor, it's a very serious way in which the profession has developed, and I think that's a very good thing.

AL: And why would you encourage young people to go into the study of history today?

HJ: Well, I encourage them to go into the study of legal history because a historic aspect is something that increasingly is lacking in legal studies. One of the big debates in legal studies, and it depends what you think a lawyer should do, the way in which a lawyer's mind should operate, we have here and at almost every other law school in the United States now a very active and very effective clinical legal education program where law students get an opportunity to go out into the community and do the things that lawyers will do under the supervision of faculty members who themselves are practitioners in emphasis. That's a very important adjunct to the academic study. But the academic study is important, too, and that's where legal history comes in.

One of the most interesting things I did while I was teaching here, I developed a case book on what I called American legal and Constitutional history, and one of my emphases outside of the areas in which I'm really interested has always been the Dred Scott case, which most lawyers don't know very much about at all. But it's a critical case. You can criticize Taney for being insensitive about the question of slavery and race and so on and so forth, but after all, he was a Southerner, born in the early years of the nineteenth century. But Dred Scott is a very important case to understand the Fourteenth Amendment, upon which almost all Constitutional law today is based.

And one of my students, after we had dealt with Dred Scott and moved into the Fourteenth Amendment said it's the first time I've understood the Fourteenth Amendment. And I said that's right, you cannot understand the Fourteenth Amendment until you understood Dred Scott, because it changes the nature of American Federalism. Students need to get back to the pre-Civil War Constitution to understand the present Constitution, and I think there are a number of areas like that where our work is not to train them as historians but to train them that something happened that's more important than the latest decision of the Supreme Court last week. And that's not only true of Constitutional law; it's true in every area of law.

The feminists for years messed up discussing the status of women in the Commonwealth, in England and the United States. I think I reviewed a book that was published maybe ten years ago—finally, the people writing on the status of women did a superb job, not that they changed the view of what the law was in the nineteenth and eighteenth century, but what they changed was the way in which society worked with the law. It's an interesting way in which, for example, many Southern males were qualified to vote not because they owned land but because their wives owned the land, and they got the right to vote because their wives owned land. Or in electioneering, there were all kinds of statutes about men entertaining, what historians called "swilling the planters with bumbo," with liquor, so you'd vote for them. It was done all over the place. But who invited them to the plantation to drink and enjoy themselves before they cast their ballots? Not the candidates, the little woman who was married to the candidate.

When you begin to look at things that way you can see the interrelationship of social mores with legal, supposedly legal, rules that you do not break at your peril. Women used powers of attorney which their husbands gave them to manage their affairs. It was the husband working, but the wife made the decision while they were absent. It's the only way to plan things or run things, but on the other hand it was really strictly outside the legal loop. That kind of thing I think is very difficult to understand unless you had some cross training, law and history, but at the same time that you're sensitive to the variations that are possible that to a modern person looking back are not obvious.

And the thing that's really been accomplished with the law and society movement is that finally lawyers are sensitive to those external pressures that operate within legal history. And as I say, that's something that's really to me very exciting, and it's being done very well really for the first time and I think it's something like the [American Society for Legal History] that's made that possible. I mean we all learn from each other, we learn from our students, and that's an important thing. If you get people together they will work with you, they will work against you,

but they sure will work in a way that makes you understand what you think better, because you've had their input into it. It's a wonderful organization and I'm glad to have been involved with it.

AL: Is there anything else that you would like to add that possibly I forgot to ask?

HJ: I can't think of anything, no. I will try to make sure to send you the names of everybody that I've mentioned that we haven't identified, and I'm sure you'll be after me for the same information.

AL: Yes, well thank you so much.

HJ: Thank you for doing the interview, I do appreciate it.

End of Interview