



**Oral History Interview of  
Professor Joseph W. McKnight  
by Josiah M. Daniel, III  
August 31, 2011**

MR. DANIEL: Hello. Today is Wednesday, August 31, 2011. It's about 1:30 p.m. Dallas, Texas time. My name is Josiah M. Daniel, III. I'm a partner in the law firm of Vinson & Elkins in its Dallas, Texas office, and I'm a member of the American Society for Legal History. Today we're going to interview Professor Joe McKnight. Let me just get a few housekeeping things out of the way first.

At its November 10th annual meeting in Philadelphia, the Board of Directors of the Society approved the creation of a committee on the history of the Society. The committee has begun, among other initiatives, an oral history project. The goal of the oral history project, at

least in the beginning phase, is to create oral histories – audio, visual, and transcribed – that will capture and preserve the memories of the founders of the American Society for Legal History and the early leadership of the Society’s history.

The histories will be collected by the History of the Society committee and made available to Society members and to other scholars in the public. For further information, you may contact the current chair of the committee, who is Professor Craig Joyce of the University of Houston Law Center.

Now our focus today, in this beginning phase of the project, is on the memories of the members of the Society who have made a contribution to its history as an organization, whom we have identified, and whose memories should be preserved.

With that, we are present here in the Dedman School of Law of Southern Methodist University in Dallas, Texas in the Rare Books Room that Professor McKnight oversees. Let me begin by asking you to please state your full name for the record and when you were born.

PROFESSOR MCKNIGHT: I’m Joseph Webb McKnight. I was born February 17th, 1925 in San Angelo, Texas.

MR. DANIEL: And who were your parents?

PROFESSOR MCKNIGHT: My parents were Helen Catherine Webb McKnight and John Banning McKnight.

MR. DANIEL: And would you tell us your educational background beginning with public school or early school all the way through higher education?

PROFESSOR MCKNIGHT: Well, I attended since I was only five years old when my parents thought I should start school, and the public schools had just gone up to the age 7 for admission of beginners. I went the first year in Mrs. Hall’s private school in San Angelo, and

then as soon as I finished first grade, then I was able to transfer into second grade in the public school.

MR. DANIEL: All right, and how many years did you go through the schools in San Angelo?

PROFESSOR MCKNIGHT: Well, I went through all, you know, twelve grades of school or however many that required in those days which I think it – I can't remember whether it was 12 or 11 or maybe even 10.

MR. DANIEL: And what year –

PROFESSOR MCKNIGHT: I went to my first school – I went to exactly the same school that my mother had gone to – there in San Angelo which was known as West Ward School. It has a more attractive name now, but it was simply known as West Ward in those days.

MR. DANIEL: And what year did you graduate from high school approximately?

PROFESSOR MCKNIGHT: Well, I was – I was trying to think of how old I was. I guess I was 15 or 16 or 14 or one of those – those ages, and it must have been about – well, it was just before I enrolled at the University of Texas, and so that would have been in – oh, I guess it would have been in the late – in the late 40's sometime.

MR. DANIEL: All right, and what was your course of study at the University of Texas?

PROFESSOR MCKNIGHT: Well, I was enrolled in one of the first classes of what was called Plan II, and that was a special curriculum for students who had been honor students in their graduating high school graduating classes. Some of them struck me as pretty dense, but most of them were really very capable.

MR. DANIEL: And within that curriculum, what subject matter areas did you like and excel in?

PROFESSOR MCKNIGHT: Well, history and political science were the things that I was the most interested in, and most of my courses were in history and political science. I was a student of Frederick Duncalf in history. I was a student of Harry Ransom in English. In fact, that was my very first day of college was in Harry Ransom's class at 8:00 a.m., and other quite good professors taught the Plan II students.

MR. DANIEL: And in what year did you graduate and what – with what degree?

PROFESSOR MCKNIGHT: I graduated with a B.A. degree and my entry in various places would show us when that happened. I can't quite remember.

MR. DANIEL: Okay. What did you do after that?

PROFESSOR MCKNIGHT: After I graduated from college, I had the good fortune of being selected for a Rhodes Scholarship, and I went after selection, which kind of surprised me. They announced our names after the selection process, and mine was the last one on the list although they said they were announcing them in alphabetical order, and I guess they did although I was beginning to wonder.

MR. DANIEL: Okay. And what did you do with that?

PROFESSOR MCKNIGHT: I enrolled in Magdalen College, Oxford, and I studied there under John Morris and Rupert Cross for three years, and I graduated with a B.A. in jurisprudence.

MR. DANIEL: Are we into the 1950s now?

PROFESSOR MCKNIGHT: We're into the 1950s now.

MR. DANIEL: Okay. And with your Oxford degree, where did you go next?

PROFESSOR MCKNIGHT: I guess that was about the time that I went up to – decided I would try to practice law in – New York City, and so I went up to New York and was interviewed by a number of firms, and I accepted a position at Cravath, Swaine & Moore. I was

there for about four years I think before I decided that I was tired of practicing law and would rather be an academician. Dean Storey and Professor Roy Ray interviewed me there. I think they were there for some kind of American Bar Association meeting and hired me, and I came to SMU.

MR. DANIEL: All right, and just for the record, who is Dean Storey?

PROFESSOR MCKNIGHT: Robert G. Storey was a man of many accomplishments. He came from Troup, Texas. He graduated in – I think, but I'm not certain that he graduated from Texas Law School, but I think he did. But that didn't make any difference. He was a man of very great accomplishment and became President of the Dallas Bar Association, the State Bar of Texas and the American Bar Association before he became the Dean of SMU Law School.

MR. DANIEL: Okay. And the other gentleman you mentioned, who was he?

PROFESSOR MCKNIGHT: Roy Ray was the chairman of the hiring committee. Roy Ray was a Kentuckian who had been here at SMU for a number of years before I came.

MR. DANIEL: Okay. Now, before we move forward, when you were practicing law, did you acquire a law license at some point?

PROFESSOR MCKNIGHT: I got a law license from – in Texas in – whenever that was.

MR. DANIEL: Was that after studying at Oxford?

PROFESSOR MCKNIGHT: Yes, it was, and I had been enrolled at the University of Texas for a couple of years to learn Texas law.

MR. DANIEL: Okay, and that was before you went to Cravath, Swaine & Moore?

PROFESSOR MCKNIGHT: That was, yes.

MR. DANIEL: Okay. So we're up to at least the mid-1950s. Can you put a date on when you began to practice with Cravath?

PROFESSOR MCKNIGHT: In the early '50s.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: Specifically, when I went – I think it was probably '51.

MR. DANIEL: How did you first become interested in history, and what were your historical interests before you started practicing law?

PROFESSOR MCKNIGHT: Well, I was interested in all kinds of history, and I took a number of history courses, or several history courses at the University of Texas. I just enjoyed history, and Frederick Duncalf, who was my original history professor, and Clarence Ayres, who was my professor of economics, sharpened my interest significantly.

MR. DANIEL: Okay. And did you maintain an interest in history and history of law while you were practicing law for those four years in New York?

PROFESSOR MCKNIGHT: Yes. That's a topic I like to read about, and I've over the years picked up a fair amount of information.

MR. DANIEL: All right. Did you have any historical projects at that – at that time?

PROFESSOR MCKNIGHT: Not at that time, I didn't. No.

MR. DANIEL: So, you said that you met Dean Storey and Professor Ray –

PROFESSOR MCKNIGHT: – in New York.

MR. DANIEL: – in New York at a meeting of the American Society –

PROFESSOR MCKNIGHT: I think –

MR. DANIEL: – American Legal –

PROFESSOR MCKNIGHT: – it may have been –

MR. DANIEL: – Association of Law Schools –

PROFESSOR MCKNIGHT: – a meeting of the American Bar Association. It may have been a meeting of the Association of American Law Schools. Just why they were there, I don't remember, but they invited me to meet with them.

MR. DANIEL: And when did you commence teaching law here at SMU?

PROFESSOR MCKNIGHT: In '55.

MR. DANIEL: 1955. All right. Tell us now how you came to be involved in the American Society for Legal History.

PROFESSOR MCKNIGHT: Well, either in '55 or '56, I forget – was it '55 that the American Society was formed?

MR. DANIEL: Well, you have kindly provided a nice archive of source materials for the history of the Society here [at SMU]. On the table before you, you have the program for I think just about every meeting the Society has ever conducted and a number of the newsletters, and, as well, this very nice Volume One of the American Society for Legal History. It's dated 1958, Number One, and it's entitled *The Legal Historian*, which says that it is to be published annually for the Society by the Bobbs-Merrill Company. And it reflects – it's got a nice early history – short history of the Society that was authored by Erwin Surrency, and it reflects that the Society was born in late December of 1956 at a meeting of the AALS held in Chicago. Were you present for that?

PROFESSOR MCKNIGHT: I was there. Yes.

MR. DANIEL: Tell us what your memory of that meeting is.

PROFESSOR MCKNIGHT: Well, it was conducted by Erwin Surrency from the University of Georgia who was the principal force behind the organization of the Society at that

time. And at that time, we had a legal history section of our annual meeting of the Society for Law Professors, and it met at the time that we formed the initial meeting of the Society.

MR. DANIEL: Had you attended any of the meetings of that legal history group within the AALS?

PROFESSOR MCKNIGHT: I'm not sure that there was any before then, but there may have been. I don't remember having attended any, anyway.

MR. DANIEL: And do you recall who was in attendance at that first meeting in December of 1956?

PROFESSOR MCKNIGHT: No. I expect their names are in the book, but I don't remember. I haven't looked back at the book to see.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: But a number of people – a decent roomful of people.

MR. DANIEL: What did you understand Professor Surrency's idea to be for the Society?

PROFESSOR MCKNIGHT: Well, it was a Society for the study of American and other legal history, but primarily American legal history, and we were virtually all academicians there. There may have been a few others who did not have academic appointments, but I don't remember whether there were or not.

MR. DANIEL: And do you know why he thought a stand-alone society would be better than a legal history group such as it was within the AALS?

PROFESSOR MCKNIGHT: I don't remember what Erwin had in mind, but I suppose that he thought it would be – having an independent Society would be better since it wouldn't be subject to any control by the teaching fraternity in general.



MR. DANIEL: And I may have asked this, but can you just tell us what you understood the purposes of the new organization to be?

PROFESSOR MCKNIGHT: Well, the study of American legal history and the getting together annually of American legal historians, which usually met academically. We're historians.

MR. DANIEL: And –

PROFESSOR MCKNIGHT: But there were others.

MR. DANIEL: And were there other scholarly and academic societies or groups that existed at that time for the promotion of legal history?

PROFESSOR MCKNIGHT: I can't remember that there were – not of that – this type. There might have been. Were there?

MR. DANIEL: Well, I'm thinking of the Selden Society.

PROFESSOR MCKNIGHT: Oh, yes. The Selden Society, but that's – that's a British society. There weren't in the United States as far as I know.

MR. DANIEL: And was there any thought to trying to organize this group under the umbrella of some other society or association such as, for instance, the American Historical Association?

PROFESSOR MCKNIGHT: I don't think so.

MR. DANIEL: Okay. And –

PROFESSOR MCKNIGHT: Though there were some members who were members of the American Historical Society.

MR. DANIEL: Was there a vote taken, or was there any formal action of the group that was present at the meeting in December 1956 in Chicago to create or form this Society?

PROFESSOR MCKNIGHT: Oh, yes. There was. I'm sure the minutes of that meeting will show – show all of that. I haven't looked back at it, but I feel pretty confident that it's all there.

MR. DANIEL: Do you recall how the Society was actually formed or organized as a legal entity?

PROFESSOR MCKNIGHT: Oh, under the laws of which state?

MR. DANIEL: Yes.

PROFESSOR MCKNIGHT: I don't remember.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: Whether it was the law of Georgia or somewhere else, but I imagine that's easily acquired by looking at one of those – one of those books.

MR. DANIEL: All right. Were you involved in additional steps to form the Society such as writing bylaws or forming or creating an organizational structure for the Society?

PROFESSOR MCKNIGHT: As I recollect, I was the first Vice President of it, and if such was done, I had a hand in it, but just what I did, I don't remember.

MR. DANIEL: Okay. Do you remember others who were present at that meeting and continued on in the Society?

PROFESSOR MCKNIGHT: Well, there were quite a number of, you know –

MR. DANIEL: Who sticks out –

PROFESSOR MCKNIGHT: Moffett Hancock was one I remember, but I feel sure there's probably a list there of those who were in attendance, but maybe not.

MR. DANIEL: Who was Mr. Hancock?

PROFESSOR MCKNIGHT: I forget where he was from. I just remember that he was there. I think Julius Goebel was there from Columbia. I don't remember who was there from Harvard or from Yale, but I think there was someone. And I imagine that it's all – all spelled out in there. Is it or not?

MR. DANIEL: Well, actually –

PROFESSOR MCKNIGHT: Or does it say who all was there?

MR. DANIEL: Quite a bit, I was trying to test your memory and see what stuck out in your mind as being important and what people were important to make the Society happen.

PROFESSOR MCKNIGHT: Well, they were just there.

MR. DANIEL: Okay. And, so, when was the next meeting?

PROFESSOR MCKNIGHT: The next time we had a Society meeting – at the AALS meeting.

MR. DANIEL: The next year?

PROFESSOR MCKNIGHT: Yeah.

MR. DANIEL: And was there a slate of programs or presentations?

PROFESSOR MCKNIGHT: I think so, but our programs here would show what those proceedings were, and I've saved the programs from each year over a period of time although I don't know if that's complete, but it maybe helps – maybe somewhat.

MR. DANIEL: Have you been able to attend each meeting, each annual meeting of the Society?

PROFESSOR MCKNIGHT: I think so. It's been going on quite a time now.

MR. DANIEL: How was the name of the Society arrived at?

PROFESSOR MCKNIGHT: Well, it's the word "for" that's peculiar. There had been a previous American Society "of" American Legal History, and the American Society "for" Legal History was so designated to distinguish it from the other society of which there was an existing charter, although I don't think it was still active.

MR. DANIEL: Tell us about actions the Society took early and over the years to reach out to a broader community and make legal history better known, more widely known and more developed as a discipline. For instance, what about a journal?

PROFESSOR MCKNIGHT: Well, I'm not quite sure when the journal came into existence, but it again I think was under the tutelage of Erwin Surrency, as I recollect. Is that not your recollection as well?

MR. DANIEL: I think that's right, but you're the one on the hot seat. Okay. Well, tell us a little bit about Erwin Surrency.

PROFESSOR MCKNIGHT: Not a great scholar, but a knowledgeable man and certainly interested in putting together a society which would last, and it has.

MR. DANIEL: And what was his position, and where was he affiliated at the time of the founding?

PROFESSOR MCKNIGHT: I think he was at the University of Georgia Law School. I think he was at the law school. He may have been on the history faculty. I can't remember.

MR. DANIEL: One of the prizes that the Society offers annually is named for him

PROFESSOR MCKNIGHT: The Surrency Prize.

MR. DANIEL: Do you know how that happened?

PROFESSOR MCKNIGHT: It just seemed appropriate to name something important for the, essentially, the founder.

MR. DANIEL: And do you know what –

PROFESSOR MCKNIGHT: And I – what year it was set up, I don't remember.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: When the Surrency Prize was initiated? It's significantly after the formation of the Society, it seems to my recollection.

MR. DANIEL: Professor Surrency – did he serve as the first President of the Society?

PROFESSOR MCKNIGHT: Yes, he did.

MR. DANIEL: And did he serve in that capacity for a year, two years?

PROFESSOR MCKNIGHT: Just a year I think. I think the terms were just for one year.

MR. DANIEL: In your memory, who were some of the early officers of the Society who had an impact or made a difference in getting the Society up and running?

PROFESSOR MCKNIGHT: I don't – you know, I'd have – I'd have to look at the programs to see who the early officers were, but they're all in there. I was the Vice President that was initially elected, but I don't remember who the Secretary or Treasurer was, but I'm sure that we could look that up quite quickly.

MR. DANIEL: All right. And the annual meetings, they continued to be held in conjunction with the AALS –

PROFESSOR MCKNIGHT: They were.

MR. DANIEL: – annual meeting for a certain time. Do you know how long that continued?

PROFESSOR MCKNIGHT: I don't remember when the first sort of independent meeting was held, but I would simply have to look. I'm, in that regard, unprepared.

MR. DANIEL: Okay. All right. We've been going for about 30 minutes. Let's take a short break, and then we'll resume.

PROFESSOR MCKNIGHT: All right.

MR. DANIEL: Who was Julius Goebel again?

PROFESSOR MCKNIGHT: Julius Goebel was the Professor of Legal History at Columbia Law School.

MR. DANIEL: And you mentioned that he's one of the ones who was – who was involved in the initial organizational meeting in Chicago?

PROFESSOR MCKNIGHT: I think he was. He certainly was one of the leaders of American Society for Legal History.

MR. DANIEL: And what about Willard Hurst?

PROFESSOR MCKNIGHT: And Willard Hurst – Willard Hurst I think was there as well and was active for a number of years thereafter.

MR. DANIEL: Bryan Bolich?

PROFESSOR MCKNIGHT: Bryan Bolich I remember was attending some meetings, but I can't remember where he was practicing legal history.

MR. DANIEL: Okay. Neill Alford?

PROFESSOR MCKNIGHT: Neill Alford was from Georgia, I think, and we met apropos of Georgia. I awhile ago misspoke when I said that the principal founder was from Georgia. He was from Georgia, but he wasn't from Georgia law school. He was rather at the law school at –

MR. DANIEL: Temple University.

PROFESSOR MCKNIGHT: At Temple University in Philadelphia.

MR. DANIEL: That's Professor Surrency?

PROFESSOR MCKNIGHT: Professor Erwin Surrency. Yes.

MR. DANIEL: All right. Let me ask you about a few others who were on the initial board, so I'm assuming they were heavily involved in the front end of the organization. William Jeffrey, Jr.?

PROFESSOR MCKNIGHT: He was from the southwest. Does it say where he was – what law school he is there?

MR. DANIEL: I'm going to check quickly. There's a list of the members, classified by place and classified by profession, and –

PROFESSOR MCKNIGHT: Jeffrey – I can't remember whether he was an academician or simply a practicing lawyer.

MR. DANIEL: He is shown as a lawyer.

PROFESSOR MCKNIGHT: As a lawyer? Okay.

MR. DANIEL: Francis Philbrick?

PROFESSOR MCKNIGHT: Francis Philbrick I remember only by name. I don't remember what his association was.

MR. DANIEL: Apparently he was a professor of law.

PROFESSOR MCKNIGHT: – at where? Philbrick – I don't remember.

MR. DANIEL: I'm not certain. All right. How about Stefan Riesenfeld?

PROFESSOR MCKNIGHT: Stefan Riesenfeld was a European by origin, and he taught at the University of California Law School.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: Very knowledgeable man.

MR. DANIEL: And one of the initial directors of the Society apparently died during his first year. That was Alison Reppy. Did you know Professor Reppy?

PROFESSOR MCKNIGHT: I did, but I can't remember who he was or whether he was a relative of Bill Reppy who later became a professor at Duke.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: It may have been Bill's father. I don't remember.

MR. DANIEL: Others – Professor Brendan F. Brown?

PROFESSOR MCKNIGHT: Brendan Brown, I forget where he was from, but he was most active in the early years of the Society.

MR. DANIEL: Professor Earl Finbar Murphy?

PROFESSOR MCKNIGHT: Earl Finbar, as he liked to be called, was very, very active in the Society, but what law school he was associated with, I don't remember. What does it say?

MR. DANIEL: Temple University.

PROFESSOR MCKNIGHT: At Temple? That would have been Surrency's home school.

MR. DANIEL: All right. And then the initial Treasurer was Professor John C. Payne. Did you know him?

PROFESSOR MCKNIGHT: Yes. It seems to me he was from a southern university, but I don't remember which one. Alabama, maybe.

MR. DANIEL: Okay. The initial organization included five committees. Let me just ask you if you were active on any of these. The first one was the Committee on the Preservation of Legal Records.

PROFESSOR MCKNIGHT: I don't remember. Is my name there?



MR. DANIEL: No, it's not.

PROFESSOR MCKNIGHT: Probably I did not, then.

MR. DANIEL: All right. The Committee on Publications, Committee on Bylaws, Committee on Membership.

PROFESSOR MCKNIGHT: I may have done bylaws. I don't remember.

MR. DANIEL: And the Committee on Nominations.

PROFESSOR MCKNIGHT: I think I probably worked on the Bylaws, but I'm not sure.

MR. DANIEL: Let me give you a few more names and just ask if you recall them the role they might have played in early years of the organization. William H. McBratney?

PROFESSOR MCKNIGHT: Bill McBratney was from Arizona. A very agreeable person who taught out in Arizona, and was very much interested in American legal history. He was a practicing lawyer.

MR. DANIEL: Okay. Professor Morris D. Forkosch?

PROFESSOR MCKNIGHT: Morris Forkosch was from somewhere in the east, but I can't – that's my best recollection. I can't remember where.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: Very active in the Society.

MR. DANIEL: The Honorable Sherrill Halbert?

PROFESSOR MCKNIGHT: Sherrill Halbert isn't remembered by me at this time.

MR. DANIEL: Okay. Professor William Tucker Dean?

PROFESSOR MCKNIGHT: Tucker Dean – I've forgotten where he's from.

MR. DANIEL: Father Joseph A. McCallum, S.J.?

PROFESSOR MCKNIGHT: Well, Father McCallum was from one of the Roman Catholic schools as best as I can remember, but I forget which one.

MR. DANIEL: Okay. You mentioned Professor Hurst. What's your memory of Professor Hurst?

PROFESSOR MCKNIGHT: Willard Hurst was one of the real authorities of American legal history of his time. Willard was from Michigan, wasn't he? And a very, very good historian.

MR. DANIEL: Were you acquainted with his writings at that time?

PROFESSOR MCKNIGHT: Yes. Yes, I was. He was a very extremely able historian.

MR. DANIEL: How would you describe the status of scholarship in the field of legal history as of 1956?

PROFESSOR MCKNIGHT: Oh, well, as we've already discussed, there were a number of practitioners in the field – that is, practitioners of history, and there were some extremely able people as was true, I think, of most legal historians. They had to sort of do their own thing while they were teaching other things in the curriculum. Not all of them taught legal history.

MR. DANIEL: All right, and fast forward to today, and how would you compare the status of the field today as against when the Society was –

PROFESSOR MCKNIGHT: Well, the position of legal historians is now much better established than it was then. Among some, it was just a sort of sideline that something he was interested in and taught when he could, but he may have been mainly teaching something else.

MR. DANIEL: All right. Well, let's turn to your own writings and ask you what's the first legal history article that you completed if you recall?

PROFESSOR MCKNIGHT: Well, I don't remember. I'd have to look at my CV to tell you.

MR. DANIEL: All right. Well, do you remember what your initial interests were in the broad field of legal history?

PROFESSOR MCKNIGHT: Well, my interests have been in a very large degree in the southwest, most particularly the maintenance of Hispanic legal institutions.

MR. DANIEL: And how did you become interested in that?

PROFESSOR MCKNIGHT: Really because it was here. That is, it was a significant element in Texas law and in California law and New Mexico law, Arizona and Louisiana and even Mississippi. And that has been my, one of my, principal interests ever since.

MR. DANIEL: And did you make presentations on that and any other legal history topics at early meetings of the Society?

PROFESSOR MCKNIGHT: I'm sure I did, but we'd have to look at some of the programs to see if I – or whether I was a performer that year or not.

MR. DANIEL: Okay. Well, as we said, you have kept a very nice collection of programs of annual meetings of the Society, nearly complete if not complete, and I noticed that there's a series of programs for the years 1960 and 1961 that reflect regional meetings of the Society. Do you recall that?

PROFESSOR MCKNIGHT: Yes. There was a regional meeting of the Society. I don't remember who was mainly responsible for getting that underway. I should remember, but I don't.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: And whether the – some of the reports might reveal that, I'm not sure either.

MR. DANIEL: Well, did you make any presentations at any regional meetings do you think?

PROFESSOR MCKNIGHT: I think I probably did, but where I don't remember.

MR. DANIEL: And on the topic of history of Spanish and Mexican and Texas, were all –

PROFESSOR MCKNIGHT: Very, very likely. Oh, I might have worked on England – English into the history as well since I had studied in, I had studied legal history in, England.

MR. DANIEL: Your collection of programs of the Society reflects that at least beginning by 1970 or '71, the Society was holding a national annual meeting. Is that your recollection?

PROFESSOR MCKNIGHT: Yes.

MR. DANIEL: And have you attended all of those since then?

PROFESSOR MCKNIGHT: I think so. Probably. Probably. I'm not sure I've been at every one, but I think the vast majority of it I attended.

MR. DANIEL: And what are some of your memories of meetings let say in the 1970s, the early 1970's?

PROFESSOR MCKNIGHT: Well, it was that they were simply a continuation of the meetings of in the prior decade. Everybody got to know everyone else pretty well. They were a very, very convivial sort of meeting. Everybody exchanged views about legal historical topics, and this is with interest at the presentations and sometimes some people asked inconvenient questions of the speaker when he was trying to show that the speaker didn't really know what he was talking about.

MR. DANIEL: Is that any different than other academic and scholarly societies?

PROFESSOR MCKNIGHT: No. I think it's all the same.

MR. DANIEL: Okay. The programs for – I'm looking at the 1970's now – there weren't as many offerings as there are at the more recent meetings, so –

PROFESSOR MCKNIGHT: There were fewer – fewer members in those times and fewer people who were willing to prepare papers. I think that's the simple answer.

MR. DANIEL: And so you anticipated my question, which is, in your memory, how has the Society grown over the years?

PROFESSOR MCKNIGHT: You mean in numbers?

MR. DANIEL: Yes.

PROFESSOR MCKNIGHT: In numbers of members? Well, I think the numbers of members has grown enormously, but I'm not quite sure how large the membership is at this time, but I think it's quite a respectable number. Do you happen to recollect?

MR. DANIEL: I have a sense that the membership presently is over 1,000, but don't hold me to that.

PROFESSOR MCKNIGHT: Which I think probably includes a number of law schools reps as well as maybe some firms here or there.

MR. DANIEL: I'd like to back up to the efforts of the Society to reach out to a broader academic and scholarly and even general public through a journal.

PROFESSOR MCKNIGHT: And the journal, of course, comes with membership and has all along.

MR. DANIEL: And the first journal, as I'm reading Volume 1 of the *Legal Historian*, was the *American Journal of Legal History* at Temple University.

PROFESSOR MCKNIGHT: Yes.

MR. DANIEL: And at some point, that must have changed so that – to a different journal.

Do you know anything about that?

PROFESSOR MCKNIGHT: I don't remember just offhand how all that happened.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: And – or exactly which year it happened. Probably, maybe in the early '70s. I can't remember.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: That is I didn't come prepared to answer that question.

MR. DANIEL: Well, no preparation was necessary!

PROFESSOR MCKNIGHT: But it seems to me that I have all the journals from those years, and we can easily pinpoint that information.

MR. DANIEL: Let's take another quick time out, and we'll come back on the record.

PROFESSOR MCKNIGHT: All right.

MR. DANIEL: Okay. Professor McKnight, I'd like to follow up on your memories, your recollections, about meetings of the Society. We talked about how in the early years in the 1960s it appears that the Society was trying some regional meetings.

PROFESSOR MCKNIGHT: Yes.

MR. DANIEL: And at some point, at least by 1970 or '71, the Society was back to a single annual –

PROFESSOR MCKNIGHT: That's right.

MR. DANIEL: – national meeting.

PROFESSOR MCKNIGHT: Yes.

MR. DANIEL: And do you remember those years in the `60s in between the programs you have for the early `60s into say the 1970s.

PROFESSOR MCKNIGHT: I don't remember. I expect that I must have attended some of those regional meetings, since I happen to have some of the programs, but I don't remember how many of them I attended or exactly why we did it that way at the time.

MR. DANIEL: Okay. Well, let me ask you about what a meeting was like back in the early days of the Society, and then I'm going to ask you to compare that to recent meetings.

PROFESSOR MCKNIGHT: Well, the early, earliest time, it was simply another activity at the annual meeting of the Association of American Law Schools. Legal historians got together just as the contract or tort professors got together at those meetings. They have an academic meeting and reports or papers.

MR. DANIEL: And then once the Society was organized as a stand-alone organization, what was the social aspect of those meetings?

PROFESSOR MCKNIGHT: It was not unusual that one of the most senior professors from around the country would ask a group of younger people to join him for dinner, and he usually – people like Joe Smith, for example, of Columbia would take them to dinner – the whole group which younger members of the Society much appreciated.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: At nice restaurants wherever we were. That was a common practice of a number of the senior professors at the meetings.

MR. DANIEL: And did you also find the academic aspect or the scholarly aspects of the annual meetings rewarding and, if so, in what ways?

PROFESSOR MCKNIGHT: Rewarding and also, over the years, improving because there were more people there listening to your presentations, and people that you respected, so you gave very good presentations, I think. People worked hard on their presentations and gave them very well.

MR. DANIEL: How many times do you think you made a presentation over the years at these meetings?

PROFESSOR MCKNIGHT: Well, we would have to check.

MR. DANIEL: Okay. But more than once?

PROFESSOR MCKNIGHT: More than once, but how many times, you know, I haven't done it in recent years, the last few years at all. I've attended the meetings, but I haven't made a presentation. That's because mainly there are younger members of the profession who ask for those slots, and they are the usual participants because it's only by being a participant that their deans will pay for their fare.

MR. DANIEL: Okay. And academics are probably the largest segment of members of the Society, but there are other types of participants as well, so, from the earliest days when it appears that mostly scholars and professors formed the organization up to the present time, what is your memory about how the membership has changed or developed?

PROFESSOR MCKNIGHT: Well, the membership has changed. There's more representation and more diverse types of backgrounds. That is more practicing lawyers – practicing lawyers from the region where the meeting is being held are more likely to attend an annual meeting than they would if it were somewhere far away, and they join and come to the meetings on that account merely because they like to come and listen and a few of them they even present papers but not usually. That's not common. I'd say that the meetings are well



attended. They are at the annual academic meeting of the teachers of law and everybody pretty well knows everybody else.

MR. DANIEL: All right. How about graduate students? Have you –

PROFESSOR MCKNIGHT: Yes, we've had –

MR. DANIEL: – seen graduates much?

PROFESSOR MCKNIGHT: If the graduate student is at a university which is near where the meeting is, then you usually have a fair number of those graduate students who attend because they probably don't have any travel money, so they attend on their own.

MR. DANIEL: And how about judges?

PROFESSOR MCKNIGHT: A few judges, but judges, you know, will be judges. They like to be important.

MR. DANIEL: Yes, they do. What scholarly projects are you working on today that are a continuation of work that you did back in the early days of the Society?

PROFESSOR MCKNIGHT: Well, I continue to be interested in and a contributor to the development of Hispanic ideas in American law, and I continue to write on that subject and have written a good deal on that subject. Maybe I'm beginning to scrape the bottom of the barrel with regard to topics, but I've still got a few going. I've got two articles going simultaneously right now on that subject. Sometimes my articles appear in law reviews, and that's usually where they go.

MR. DANIEL: And sometimes in historical journals.

PROFESSOR MCKNIGHT: Or historical journals.

MR. DANIEL: Like your article on history of the homestead in Texas?

PROFESSOR MCKNIGHT: Yes.

MR. DANIEL: Was in the *Southwestern Historical Quarterly*?

PROFESSOR MCKNIGHT: Yes. You know, occasionally *Historical Quarterly* runs those articles, but *Southwestern*, of course, would reflect the interests of readers in the southwest.

MR. DANIEL: All right, do you have any other general, or fond, memories of the Society over the many years in which you've participated in its meetings and its activities?

PROFESSOR MCKNIGHT: I always enjoyed going to meetings, and I am keeping in touch with people I've known in the past and just visiting with them. That is, you know, over the years we've gotten to know each other, but we don't see each other except at these meetings. But that association is always a very pleasant one, and I enjoy going for that reason as well as to listen to what they have to say. I think others share that view.

MR. DANIEL: There are some other ways in which the Society over the years has tried to communicate with its members and reach out to a broader audience, so let me just ask you about a couple of those.

PROFESSOR MCKNIGHT: All right.

MR. DANIEL: The newsletter. You've got a collection of the Society's newsletters over years going back to at least 1987, and this is the –

PROFESSOR MCKNIGHT: Those pamphlets, et cetera, until quite recently filed in a large brown corrugated box that had been stored in a room of – but Professor Tate had brought them to life again.

MR. DANIEL: We'll let the record reflect that present, but not in the camera, is Professor Joshua C. Tate of SMU's law school. Was the newsletter valuable to you as a member?

PROFESSOR MCKNIGHT: Somewhat.

MR. DANIEL: And are you reading it in its electronic form these days?

PROFESSOR MCKNIGHT: No, but I don't read anything on electronic form.

MR. DANIEL: Okay. All right.

PROFESSOR MCKNIGHT: At all. I don't know how to use electronic form

MR. DANIEL: So, for instance –

PROFESSOR MCKNIGHT: And I'm not going to learn furthermore.

MR. DANIEL: Okay. Do you know what H-LAW is?

PROFESSOR MCKNIGHT: I have no idea.

MR. DANIEL: Okay.

PROFESSOR MCKNIGHT: What is H-LAW?

MR. DANIEL: H-LAW is the Society's internet-based email discussion group on legal history topics.

PROFESSOR MCKNIGHT: Well, perhaps I should make myself more familiar, but I have no idea about that -- unaware, totally unaware, until right this minute.

MR. DANIEL: I'll bet we can sign you up. Let's see. Other ways in which the Society has had an impact on the broader academic and scholarly community here and around the world or the general public that you can recall?

PROFESSOR MCKNIGHT: I think it has had an impact on the historical academicians, and I think that those who are interested in legal history and associated subject matter find the association an interesting source of information, and they attend the meetings.

MR. DANIEL: The Society has a couple of different sorts of fellows. Are you familiar with that, the honorary fellows and corresponding fellows?

PROFESSOR MCKNIGHT: Yes. Well, I'm somewhat familiar with it, but I forget who they are right now.

MR. DANIEL: Okay. Is that one way the Society reaches out to the broader community?

PROFESSOR MCKNIGHT: Yes. Yes.

MR. DANIEL: And what about the role that prizes play? The prizes that the Society offers for outstanding legal historical work, books and articles?

PROFESSOR MCKNIGHT: Well, I think the awards are well deserved and receive a nice round of applause at the annual meeting, and I think they are well deserved. The committee that selects the winners of the prizes itself is well selected, and their judgment is good. I can't say that I've ever received one of them, but I don't even know whether one is supposed to enter these contests or not.

MR. DANIEL: Let me return to something that I probably have asked you or touched on earlier in this interview, and that is the discipline or the field of legal history and ask you, in addition to yourself, who do you recall as being important or seminal contributors to the development of legal history as a discipline or as a field of study itself?

PROFESSOR MCKNIGHT: Well, I think, and his interest is American legal history, that one was Julius Goebel, under whom I studied at Columbia, but there are a number of others who have made important contributions to the subject. That is, I don't know that Erwin Surrency has a great corpus of writing, but he certainly contributed a great deal in the organization of the Society initially. But there are a great many people who do write extensively and attend annual meetings. I always attending those meetings and pick up all kinds of information.

MR. DANIEL: Let's take a short break, and we'll be back.

Okay. Professor McKnight, this will probably be the last segment of the interview, so I'll try to get in all the rest of my questions, and I'd like to start with focusing on the Society, its

organizational structure and annual meetings. The Society has definitely grown a lot from its inception in the 60's.

PROFESSOR MCKNIGHT: Enormously.

MR. DANIEL: And, for instance, there were eight original directors. Today, the organization has 16 members of its board, correct?

PROFESSOR MCKNIGHT: Yes.

MR. DANIEL: It started with a half dozen committees, and today it has about 20 different committees. So in addition to growth in membership and size and scale, what other changes or developments or evolution of the Society have you noticed over the years that stick out in your memory?

PROFESSOR MCKNIGHT: Well, one thing is at the annual meetings, there are a large number of graduate students who attend who didn't use to attend unless they were geographically right near where the meeting was because they didn't have any travel expenses to get them there. And there are usually quite a lot of graduate students who attend the annual meetings, and I think the annual meetings serve a very useful purpose of imparting knowledge in that regard to matters of interest to students who are apparently doing advanced degrees at various law schools.

MR. DANIEL: Okay. And what about the participation by women? I can't say that I can tell from the listing of names of the original members of the Society that there were no women members, but there were no women in the leadership -- the officers and the directors and the committees and the committee members -- at least in the beginning.

PROFESSOR MCKNIGHT: There weren't, no. There simply weren't any women except the wives of a few professors might come along and attend some of the segments, but – well, there weren't that many women legal academicians at that time either as there are now.

MR. DANIEL: And has that changed over the years?

PROFESSOR MCKNIGHT: That's changed very considerably, and we had one, at least one, Barbara Black, President of the Society, and I daresay we may have had others. I don't – none come to mind – to my mind right away, but I assume there were some.

MR. DANIEL: And is the same thing true of participation by members of minority groups?

PROFESSOR MCKNIGHT: Well, I guess so. There certainly weren't any marked numbers of minorities in the early, early meetings, but I guess that may have been a function of the fact that there weren't very many minority academicians who might have been interested in American legal history. I don't know why the change has occurred, but I think that's occurred throughout the academic calling.

MR. DANIEL: Was there any particular time during these years when those things began to change, or has it been a gradual evolution?

PROFESSOR MCKNIGHT: I think it's been gradual.

MR. DANIEL: Now, how about the scope of topics that are presented at annual meetings of the Society? I'd like to ask you what's the relationship between that – in the early going of the Society, and more recently at annual meetings?

PROFESSOR MCKNIGHT: Well, it's largely a function of the number of people who offer papers, and there are far more of those than there used to be. Early programs of the

association indicate a relatively small number of presentations whereas the number today is much greater.

MR. DANIEL: And what about the scope of topics?

PROFESSOR MCKNIGHT: And the topics are much, much more – much – cover a much wider field of subject matters.

MR. DANIEL: And how about as between, let's say, U.S. legal history and legal history from other parts of the world?

PROFESSOR MCKNIGHT: Well, in the latter, there is – are presentations often times by academicians from other parts of the world, but there are usually plenty of American topics available to audiences at the annual meetings.

MR. DANIEL: How about logistics and just everything that's involved with coming to an annual meeting? Can you compare what it was like to travel to the initial organizational meeting in December of 1956 in Chicago to more recent annual meetings?

PROFESSOR MCKNIGHT: Well, if you were going to an annual meeting in Chicago, you got on the train, and you went on up to Chicago on the train. I went from Dallas on the train, and I came back the same way, and that's the way we got to and fro. Today we get to and fro usually by airplane. I don't know how many people come by train except if they happen to be in the northeast and other places where the meeting may be. It may be close, and they therefore come on the train too. The mode of travel, I think, does affect the attendance somewhat in that if it's a long distance and it costs a good deal, it may be something that particular potential attendant may not want to attend for the very reason that he doesn't want to use up that amount of money that he might be entitled to attend something else with.

MR. DANIEL: All right. And how about the venue for the annual meetings? Has that changed over the years?

PROFESSOR MCKNIGHT: Yes. The meetings tend to be much more widely spread throughout the country. The early meetings were generally – well, the early meetings were where the meetings of the AALS were at the same time. The eastern members of the Society would like to have all the meetings in the east because it's easier for them to get there, but for those of us who live further away, it's very, very nice for us every once in awhile to have a meeting that's nearer rather than farther.

MR. DANIEL: Okay. As you think back on all of the annual meetings that you have attended, are there any specific personalities that you – or persons, I mean – that you found to be most enjoyable and least enjoyable?

PROFESSOR MCKNIGHT: Oh, the senior members of the historical membership are always better informed than the junior members, and they are, as a general rule at least for me, more interesting to visit with than somebody who is new at the game. I think that's inevitable.

MR. DANIEL: Do you recommend membership in the Society to people, and, if so, what sorts of people do you recommend to join?

PROFESSOR MCKNIGHT: I think anybody who's interested in American legal history will get a considerable amount of enjoyment attending the meetings and should join, and I certainly would encourage them if they ask me. I don't remember in my experience anyone ever asking me, however.

MR. DANIEL: Okay. We have been having this interview today in your library, the Rare Books Room of the Denman School of Law here at SMU. Could you just tell us a little bit about where we are sitting and what surrounds us?



PROFESSOR MCKNIGHT: Well, this room was built as part of the library, as a rare books room for books, the library room for antiquarian books, by the committee that oversaw the building of the library under the administration of Charles Galvin when he was Dean here, and our collection of antiquarian books at that time was relatively small. I advised the librarian on books to buy at that time, and all that was acquired were those two large shelves on both sides, and the rest of the books have been accumulated by me ever since. And I bought books that impinge on my interests, but I've also tried to keep a general coverage of legal history in the available books of American and European catalogs which I review every time one arrives, which is maybe at least once a week. And I have a pile of books down there that I just bought that arrived yesterday. Maybe that may be the last batch of books. There isn't much on the market now that I don't have. I've expressed to the Dean my intention of making a bequest of my antiquarian books to the law school, and that's what's become of it. I continue to buy books, but that aisle there was relatively costly, and I don't ever plan to buy very more that are that expensive.

MR. DANIEL: All right. Well, I know that there are a lot of questions that I didn't ask you that I should have, the I didn't think of, but I'll just close by asking you is there anything else you would want to put on the record in the way of your memories of the American Society for Legal History on its founding and its growth and its development over the years? Just any, any other thoughts or comments?

PROFESSOR MCKNIGHT: Well, I've greatly enjoyed attending the annual meetings, and I think that it's been a very worthwhile society that has been well run over the years and continues to be very well run. The people who've come along afterwards have run the Society just as well or better than the people who started it, and I think it's going extremely well. I don't

like to miss an annual meeting, and I have attended virtually all of them, and I shall continue to do so.

MR. DANIEL: Okay. Professor McKnight, thank you very much.

PROFESSOR MCKNIGHT: Thank you very much.

[End of interview.]