

James W. McCartney
An Oral History
Interview

TARLTON LAW LIBRARY



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An Oral History Interview

Interviewed by Sheree Scarborough

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INTRODUCTION TO THE TARLTON LAW LIBRARY
ORAL HISTORY SERIES

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*The spoken word is history's most fragile evidence, and its most evanescent witness. Through its recorded perspectives and insights, oral history illuminates, supplements, and adds new details to the material, the tangible, record.**

In 1986 Roy Mersky, Harry M. Reasoner Regents Chair in Law and longtime director of the Tarlton Law Library and Jamail Center for Legal Research, began the process of conducting and publishing oral histories of individuals who had played significant roles in the history of Texas law. In this, as in many other respects, he was a pioneer.


Originally funded with a grant from the Texas Sesquicentennial Commission, the oral histories are now supported by the University of Texas Law School Foundation and by subscriptions to the printed transcripts.

The series continues to feature interviews with outstanding alumni and faculty of The University of Texas School of Law. Their recollections on the growth of the Law School and on the major legal and political developments of the past half-century provide valuable first-hand testimony for historians and others.

Oral history requires a considerable investment of time and skill. The interviewer first conducts extensive research on the interviewee's life and times, prepares an outline for the interview, and then selects a set of questions designed to put the interviewee at ease and to recall past events accurately and meaningfully. The recorded interview is then transcribed and proofed by both interviewer and interviewee for accuracy.

Conducting oral histories entails obligations to preserve the interviews and make them available to the public. The Law Library publishes printed booklets of the interview transcripts for most of its oral histories, although some of the more recent interviews are published only online. Copies of all oral histories may be ordered through the library's publications webpage. Excerpts from some recent interviews are also available online as video files. In time, the complete audio files and transcripts should be available online.

* Chet Orloff & Yvette Berthel, *The Spoken Word: Oral History in the Ninth Circuit*, WESTERN LEGAL HISTORY 1:2 (Summer/Fall 1988), 271.



Reading, hearing, and viewing leaders in the field of law should deepen the appreciation not only of the contributions these individuals made to the profession but also the importance of that profession in advancing justice in our democracy.

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INTERVIEW HISTORY

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The following is an interview with James W. McCartney, an alumnus of The University of Texas School of Law, who graduated in 1952. He is a senior partner at the Vinson & Elkins law firm in Houston. This is Sheree Scarborough for The University of Texas School of Law. I'm meeting Mr. McCartney at his office in Houston, Texas, on December 4, 1996.

SS: *Mr. McCartney, you are a graduate of which class?*

JM: The class of 1952. I started in September 1949. I was nineteen years old. At that time we had the six-year-plan. So, I had three years of undergraduate work in the School of Business Administration. Then I went into the Law School in September 1949, as a first year green — greener than my nineteen years indicated. [Laughter.]

SS: *You would be surprised how many people say that.*

JM: I'd be surprised if anybody could top me for being green.

SS: *So, you had not been through the war then?*

JM: No. I had not been in the service. I was fifteen when the war was over. There were a lot of veterans in that class, which made the class a much more mature class than you would normally have.

SS: *How did that affect you to go to school with all these older students, who had been through the war?*

JM: I was just hanging in there. I was not nearly as sophisticated as some of these "really old guys," who were as old as twenty-two or twenty-three. Obviously, at that time, the twenty-six or twenty-seven-year-old guy was really an old man. We had a fellow who was twenty-seven years old, in the fraternity, and we referred to him as "Dad Sullivan." That was a completely different perspective than we have now. But to answer your question a little more — I didn't really sense anything in law school, because I had started at the University when I was sixteen. That was right at the time when the war was over. I had been through three years of this same situation where I was one of the youngest and the most immature of the students. So, law school was just a continuation of that.

SS: *I see. You went to school in the old Law Building?*

JM: Yes. I believe, in looking at the *Peregrinus*, they may have moved out of the old building in 1953.

SS: *That's right.*

JM: I believe we were the last, if not the next-to-the-last class to use that building.

SS: *I've heard some stories about events in that building. [Laughter.]*

JM: I bet you have. [Laughter.] Once again, the University at that time was made-up of old buildings, new buildings, temporary buildings, and the Law Building just happened to be one of the old buildings. It had a tremendous amount of charm. It was hot in the summertime. If people were allowed to sit in the windows, I don't recall. I have a mental image of seeing some people attending

class and sitting right next to or in the window. But, the building had a lot of charm. And in retrospect, it added a lot to the quality of the experience. It had high ceilings, tall windows, and old offices. The professors had sorry office accommodations, though. The classrooms were adequate.

SS: *Was Dean Keeton the Law School dean when you were in school?*

JM: No, that's not my recollection. Leon Green was interim dean. I believed at the time Charlie McCormick was dean. We referred to him as Dean McCormick, but the *Peregrinus* shows Leon Green as the dean.

SS: *Would you like to talk about some of the faculty members?*

JM: We were assigned classes and professors the first year, I don't recall having any options. There may have been one or two. Basically, I just fell into wherever I thought I was supposed to fall in. That put me with Judge Stayton for procedure, who was a delightful gentleman. He had a good sense of humor, obviously was distinguished and tolerant. He had a wonderful way about him — exuded quality, intellect and concern — as did most of the others. [Judge Stayton] was older. You know, I'd be curious to know how old he was, because in retrospect, I would think he was a lot older. But looking through the pictures [from *Peregrinus* today], it looks like the faculty was very young. [Laughter.]

SS: *Yes, it's interesting how one's perspective changes.*

JM: [Stayton] taught procedure, which was a mystery, and if I remember correctly, had a lot of historical facets. He was able to make it very interesting to me. It was extremely interesting. Let me make a caveat here: I'm trying to remember what was going on when I was nineteen, twenty, twenty-one and twenty-two-years-old. These impressions are still fairly vivid, but whether they are really accurate or not — if this was what I was thinking at the time or not — I don't know. But procedure was a subject Judge Stayton made interesting and fun; and it seemed to be more of a black-and-white situation than the other courses I took. That is to say, there was a right answer and a wrong answer, but what strikes me most now is the courtly manner of Judge Stayton.

Another one of the distinguished professors I had was Charlie McCormick, and here again, he was a fellow with tremendous intellect and projected a very warm personality. He was very self-assured and confident of his position. At that time, he had published on evidence and contracts and was a recognized scholar in the field. So, he had that kind of confidence that was not built on ego, but was built on having been there, done it, and having achieved in his field. He was a delightful individual to take [courses] from. I took contracts and evidence from him. I feel like I had a great experience with him. He was easy to talk to. I never did understand the grading system. However, I had my own theory about it, which was if you could write legibly, you made about ten points more than if you couldn't write legibly. I made a good grade in contracts, and I made poor grades in other subjects, and I could not tell the difference. I didn't know what I'd done right and what I'd done wrong. So I went in to talk to

[Professor McCormick] — and of course everybody else went in to complain about their grades — so he was expecting me to complain. I told him I was delighted with my grade, and I just wanted to know what I had done right. He said, "Mr. McCartney, I cannot tell you how you accidentally hit the bulls-eye."
[Laughter.]

SS: *[Laughter.] That's great.*

JM: I think during that first year, I had trusts from "Buck" Weldon Bailey. He also taught bills and notes. I really liked Professor Bailey. He was a different type, as I recall. He was less approachable, in the sense that when you were in class, it was all business. He was a tough and frightening sort of individual. He could make a fellow feel pretty stupid — and he did on occasion. But he was one of my favorites, and now looking back on it, I don't know why. He didn't know me from Oscar Mauzy (who sat next to me in a number of classes), but I could understand what he said. He communicated with me better than some of the others.

SS: *About how many students were in your classes?*

JM: I guess that's a matter of record, but I'm going to guess about fifty to seventy. Of course, some of the classes were larger than others. We were basically seated alphabetically. Although I also recall that the word was out — in some classes you didn't want to sit on the front, because you might be called on more. So that conflicts with what I just said. I just really can't recall. But most classes were fairly large. It was a fairly unusual situation to get called. I was usually hunkered down, so I stayed out of sight. If somebody called on me, why that was just my black day. [Laughter.]

SS: *People didn't raise their hands to contribute?*

JM: As in any class, there were those who dominated the dialogue. We had a couple of guys who just talked and talked. Everybody [thought], "Shut up, let somebody else talk." On the other hand, there was this ambivalence, if he's not talking, maybe I'm going to get called on. So maybe that was the better alternative than having to recite. But usually that was well under control. I can't think of any situation where domination by one individual was not well handled by the faculty.

I also had Charlie Meyers for oil and gas law. His brother, Jimmy Meyers, who is [now] a judge, was in my class or the next class back. Charlie was a delightful individual, and he was young. He was easy to communicate with, easy to talk with, easy to be around. He was not quite [as] intimidating as some of the others. Of course, he went on to great things. He became the dean of Stanford Law School. He died two or three years ago. Of course, he was the author of Williams and Meyers, which is a preeminent oil and gas work. Howard Williams was also at the University, I believe, I did not have him as a professor. They first published their book in the 1950s, but it is the preeminent work in oil and gas.

SS: *Is that your field?*

JM: Yes.

SS: *Did you make that decision in law school?*

JM: No. That decision was made for me. I came to work by default — which is another story — with Vinson & Elkins. And I was assigned to one section, which was gas contract work. I was working for Trunkline Gas Company, reading their gas purchase contracts, which didn't mean a thing to me at all. [It was] just words on a piece of paper. I was moved into title work. Vinson & Elkins has always done a lot of oil and gas work, and we did at that time, a lot of title work. There was a buy-out of either Abercrombie or somebody like Floyd Karsten. I was given one of the titles to examine — to read the abstract. I overlooked an overriding royalty reservation, which is absolutely what you don't do. It was not a good thing to do back then. I just screwed up. So, I was immediately taken out of title examination and put into trial work, where I couldn't do as much damage. Thank God, I missed that override. If I hadn't, I might have ended up in some other area, but I was put into trial work. From there, I evolved into oil and gas litigation, representing Union Producing Company, United Gas Pipeline Company, Magnolia Petroleum Company — some of the old Vinson & Elkins clients. So that's how I got into that.

SS: *You did very well at that since you are now a senior partner at Vinson & Elkins. What a quirk of fate.*

JM: It was, and it wasn't a traumatic thing. It was just one of those mistakes that work out to your benefit in the long run. But I was always interested in oil and gas law and in Texas land titles. I think I had Corwin Johnson, "Corky" Johnson, for Texas land titles.

SS: *I just interviewed Professor Johnson.*

JM: He's a great guy. He just retired within the last three or four years. He was a lot of fun to have [as a professor]. And there was a lot of history associated with land titles. He also taught real property, another course I took. I believe that was his field at the time.

SS: *Did you study from a casebook in that course called the McDougal-Haber casebook?*

JM: Seems to me I did. When you said that, an image came to mind of a dark green book.

SS: *There was an issue surrounding the casebook. I don't know if you were aware of that as a student?*

JM: I was not. What was the issue? If you tell me, it might jog my memory.

SS: *Members of the Texas Legislature accused the book of being communist.*

JM: The casebook? No, if that was the case, it wasn't any great moment. It was one of those goofy things that the Legislature does. Was that during this early 1950s era?

SS: Yes.

JM: See, I don't have a specific recollection of that at all. I do know the Legislature — you can't get too excited about what they did — because they just did all kinds of goofy things. A lot of them were done out of just wanting to have fun. I worked in the Legislature for four terms. I worked my way through school. I worked for Senator York out of Bryan. I was out of Fort Worth, but my senator in Fort Worth got me a job. I worked half time. I was thrown with the senators and legislators a lot. Not that I mixed and mingled with them. I typed letters to their constituents and observed. They were always doing something "squirrely." [They] still are. It's just the nature of the Legislature. Thank God we don't have annual sessions.

SS: *[Laughter.]*

JM: I just don't remember a controversy. Was the casebook on constitutional law?

SS: *No, it was property. It was a new one, McDougal was out of Yale. Professor Johnson had a class with him. McDougal was looking at property issues worldwide and looking at political systems. He used the word "planning" and that was a bad word at that time.*

JM: That was a stretch, I'd say.

SS: *Well, this was the McCarthy era.*

JM: I don't believe we had anybody in the Legislature who was that colorful or who was able to evoke that kind of emotion. I'm trying to think of who the liberals were on the faculty then — or should I say, who I perceived them to be. Once again, I'm looking at them from the perspective of a really young, immature kid. I perceived Jerre Williams to be liberal. And I was conservative. I had him for constitutional law. Of course, that is an area in which the political bent can come out. He was a fairly young man then. He was sort of a fire-brand radical. I'm trying to think if there were any others that I would identify on one side or the other of the political spectrum. Joe Witherspoon, I would have put him on the conservative side of the spectrum. He was kind of a "squirrely" fellow, but would leave you with the impression that he was a genius. He was fun to take a class from. At the time, I was so intimidated that it wasn't any fun. Right now, I'd love to take a class from him. He was an engaging individual. I had a high personal regard for him, even though I didn't know him. I was out of it as far as mixing socially with the faculty — because of my personality and age. Joe was interesting. I think I had him for a course called legal method or some such. He had a strange style of teaching and it was just questions, questions, questions. For example, "Why is the period after v in *Pierson v. Post*?"

SS: *Important issues such as that. [Laughter.]*

JM: Right. [Laughter.] It was a marvelous course. At least it was a mind-shaping course in that it emphasized the differences between rights and privileges and powers. I guess, if I had to identify the one thing that most influenced my political thinking, and reaction to current events over the last decades, it would be that one-hour course. The textbook made an interesting instruction about

the difference between your rights, privileges, and powers. Today, when you see all the current events, well, they all boil down to rights, privileges, and powers — the lines have been blurred.

JM: I wanted to say one more thing [about the faculty]. The only faculty member I mixed with socially was Leon Green. We played golf together. I had torts from him, and I never did understand torts. All I remember about torts is that I was told by one of my classmates, "Don't use the word proximate cause in your exam." That's a simple instruction. They said that because "Leon Green doesn't believe in proximate cause." That just goes to show you how much sense law students have or had. I think law students are much more sophisticated now. [Green] was a very engaging guy, and he played golf. I guess we talked and he invited me to play golf with him. So, we played quite a bit of golf together. He was a rotten golfer. What impressed me most, is that he played without his shirt. [Laughter.] We played out at the old Austin Memorial Golf Course. He'd peel off his shirt. That was his golfing attire.

SS: *[Laughter.] They probably wouldn't let him do that today. There are so few characters in the world today, because of all our rules and regulations.*

JM: He was a delightful person on the golf course.

SS: *Did you talk about law on the golf course?*

JM: I was afraid to talk about law. It was sort of like talking business at a social event. It didn't seem like the right thing to do. But I really wanted to ask him questions. In retrospect, he loved the law, and I'm sure he would have loved to talk about that as anything. I don't recall ever asking him any questions or complaining about anything. That would have been a good situation to gripe about something, but I can't recall any right now. Mostly, we played golf and had a good time. Charlie Meyers mixed socially a lot with students, primarily because he was younger and his brother, Jimmy, was there [at the Law School]. The others I'm sure did too. I just personally didn't.

SS: *Where would you mix?*

JM: Hillsberg's. That would have been the only opportunity that I would have had — aside from the golf course. That's not to say they were not accessible, but my own circumstances were such — I'm sorry to say — that I did not take advantage of the opportunity to have dialogue and exchange with [faculty] outside the classroom. Because I think that's a great thing. I made some very dear friends — that I still have — out of the law school days. That's a place where you make some pretty strong friends. My roommate after law school was a man by the name of Harold Young, who was a bombardier on a B-17, most of these fellows were older. I honestly can't think of anybody who was my same age. I'm sure it didn't make any difference. Of course, Joe Jamail was in school.

SS: *Were you friends?*

JM: Yes, we've always been very good friends, and we were friends at that time.

SS: *You mentioned you were conservative politically as a student, was he liberal politically back then?*

JM: I don't think so. I don't think that Joe would have ever been regarded as a liberal. He just understood people better than anybody else. He took torts from Clarence Morris, and of course, it's a well known story that Clarence told him to quit law school and go into the grocery business. Generally, however, my colleagues were a motley group. I think we were quite different from my perception of what the class is today. At that time, to get into [UT] Law School all you had to have was twenty-five dollars and a dollar for blanket tax.

SS: *I think you may have also had to have a "C" average.*

JM: I just know if you wanted to go to law school, you went to law school. You took pre-law or whatever. I did. You signed up for six years and after three years, you went to law school.

SS: *Very different from today.*

JM: Yes, it's very tough to get in today. You've got everybody from all sides of the spectrum — all economic levels and all levels of intellect, drive, don't give a damn, serious, studying — every kind of individual you could think of who would have some interest in going to law school.

SS: *This might be a good place to bring up some important issues. One of them would be women students. Were there many women in your class?*

JM: No, not many. There was one. I've forgotten her name now, but she married Jerre Williams. She was a very bright woman.

SS: *Mary Pearl [Hall] Williams.*

JM: Yes. You can glance through the *Peregrinus* and see that there aren't many female faces in there. There were none on the faculty except Helen Hargrave who was the librarian. She was much admired. There weren't many women. I know one — Charlotte Conroy — but I don't see her picture in there. But they began to show up in the classes in 1953-54 and on.

SS: *That's a way in which the UT Law School today is much more diverse. And all law schools, I guess.*

JM: There wouldn't have been the interest at that time — of women — in going to law school. There were not many who wanted to go. As we talk here, I can't imagine that if one wanted to go, they couldn't go. Everybody could go.

SS: *There is the case of some who may have wanted to go — African Americans — but were prevented from going by law. So that was changed by a lawsuit that went all the way to the U.S. Supreme Court in Sweatt v. Painter.*

JM: That was Heman Sweatt's lawsuit. I remember the circumstances, but in a very inconsequential way. I would see Heman Sweatt once or twice a week where I would know that I had seen him. When I glanced through [the *Peregrinus*] last night, I noticed he was in the class of 1954. Whereas, there was a black man — Virgil Lott — in my class. I have a better recollection of him. My impression of Sweatt was that I regarded him as a celebrity, because his name was

prominent. It was not something, in my mind, that was given a great deal of consideration one way or another. I was very conservative and so I was interested in [integration] from a general public interest standpoint. But then from the standpoint of Sweatt, himself, he was a very nice fellow and I didn't have, personally, any contact with him — other than to see him in the halls.

SS: *Do you remember any of your classmates talking about the issue of blacks coming to [the] Law School in a positive or negative way?*

JM: I don't have any specific recollections, but I have a general recollection that it was one of the issues of the day. I have a distinct sense that it was not a big deal. It was just one of those things that was in the papers. Do you recall when Sweatt actually entered the Law School?

SS: *1950. And he "flunked out" in 1952.*

JM: That's what I understood. That he was a nice fellow, regarded as I don't know. I just recall that was what the talk was. On the other hand, Virgil Lott was a pretty damn smart guy. He also was a pleasant person, but there was not a lot of social contact.

SS: *You had classes with him?*

JM: Yes.

SS: *Did he sit with the other students?*

JM: Oh, yes. We were in there together, and he suffered under the same fright that the rest of us suffered under. I recall that he was not ostracized in any way. I don't recall that he was treated any differently. It was a different situation then of course. And there wasn't that social contact between blacks and whites. But there wasn't any antagonism or any hostility evidenced at all.

SS: *Later in a newspaper article, Sweatt said he did have hostility displayed against him and mentioned a cross burning on or across from the grounds of the UT Law School. Do you remember that at all?*

JM: No. I don't remember that. And what Heman Sweatt personally thought, I obviously don't know. If he felt there was personal hostility toward him, I think he was over-exaggerating things. But if I was in his shoes, every time somebody looked around, I would be uncomfortable about it. But the way I saw it, there was not any sense of "you beat us" and there wasn't any sense of "we're resentful because you did." Now, that's not to say that some people might not have entertained that notion. But it really wasn't a big thing as I saw it.

SS: *Interesting.*

JM: And I'm sure you're going to get all of these [perspectives] and put this mosaic together, and then you'll have a pretty good feel for things. But you ought to be careful about getting carried away — for whatever purpose — exaggerating situations that occurred forty-some-odd years ago. As a historian, you have a lot of influence on what history is. But there was probably some black-white tension, as there always is, and there is today. My impression is that there was no more than there is today — in fact, probably less.

SS: *Interesting. Do you remember any of the faculty bringing up the issue in class? About the legal implications?*

JM: I do not. I'm sure it must have been brought up, but I can't recall any specific situation in which the faculty commented on it. I will say as far as the women were concerned, Judge Stumberg, who was a great individual and taught criminal law. He made it a point — I don't know what was in his mind — to embarrass the women. He would usually call on a woman to testify about the rape cases and the paramour cases. But it wasn't really anything that showed bad taste. My sense was that he thought, "By God they want to be lawyers, well they can stand up and recite like everybody else." But also my sense was that he called on them more often in the sexual cases and matters that involved sex. Reflecting back on it, that is one situation where there was something in the classroom — whether it was regarded as offensive or not — I don't know. One of the girls I knew didn't think it was offensive. She embraced it.

SS: *She didn't feel like he was trying to intimidate her?*

JM: That was my sense. I really can't say how she really felt. I didn't get the sense any offense was taken. But it was pretty well-known and maybe exaggerated at the time. I remember the talk about it was, "Old Stumberg, is coming into these cases. Let's see who he calls on."

SS: *So there were a few women in your classes?*

JM: Yes, but not many. I didn't have any impression that was a big deal.

SS: *Did the men and women students socialize?*

JM: Yes, but there weren't many women students. I do remember June [Jean Dalby] was in that class. But I think she was the only one. She's the only one whose picture pops up here, there are a few more female faces, but not many. In the class of 1954, there was a black woman — Vivian Brooks — was she the Portia of the Law School? I have a hazy recollection that she was. She was in the class of 1954, which would have been the class of Heman Sweatt. There are several black students by the time you get to 1954.

SS: *Well maybe we should shift gears here. One thing I'd like to ask you is why you became a lawyer?*

JM: I had a very unique situation. My father was a lawyer; my grandfather was a lawyer; my uncle was a lawyer; my mother's father was a lawyer; my mother's grandfather was a lawyer. So, just about everybody in my family was a lawyer, except one fellow who was a Methodist preacher. Two generations before me were lawyers. So, I never had a thought about doing anything else. There was no decision. You go to school, you go to law school, and then you go out to work.

SS: *Where did your family live?*

JM: My father, my uncle and my grandfather were from Brownwood, Texas. Then my mother's father and grandfather were from Fort Worth. And one of my mother's uncles was from Austin. They were all lawyers. My mother was from Fort Worth, and my father was from Brownwood. My father was killed in a

plane crash in 1933 and so my mother then moved back to Fort Worth, and I grew up in Fort Worth.

SS: *So then coming to Houston [after your graduation from law school] was somewhat unusual in your family?*

JM: Yes, in that sense. But I came to Houston because I married a girl from Houston. I met her at The University of Texas. Her father, undoubtedly, got me this job with Vinson & Elkins. I wanted to go to work in Fort Worth or Beaumont — of all things. Basically, because Judge Elkins paid \$300 a month, and Sun Oil Company paid \$450 a month. And then the firm in Fort Worth — Thompson, Walker, Smith and Shannon — the firm I had worked for during the summer, didn't offer me a job. The field [of job possibilities] began to shrink, so Judge Elkins gave me a job. So, I started here [at Vinson & Elkins]. In those days everybody was either a son or son-in-law of a client, a federal judge, or from Huntsville. That's an overstatement — but not much of one.

SS: *Was the firm as well known then as it is now?*

JM: Oh yes. It was a very well known, big firm then. Baker & Botts and Vinson & Elkins, and then Fulbright, Crooker, Freeman and Bates was the third big firm, and Butler, Binion, Rice and Cook, and then there's Andrews, Kurth, Campbell and Jones. They were the four or five big firms in Houston. Vinson & Elkins was numerically second to Baker & Botts.

SS: *That was quite a job to land.*

JM: Yes, I didn't realize it at the time. I was disappointed I was only going to get \$300 a month. But it worked out real well.

SS: *So, law firms didn't recruit back then as they do now?*

JM: No they really didn't. They did recruit some. Baker & Botts hired the top people in class — people on the Law Review. So did Judge Elkins. I wasn't one of them. I came in through the son-in-law routine. But Baker & Botts was the firm that went after the top students. And the conventional wisdom was that you went to work for Baker & Botts, and you got a \$1000 a year raise until you reached \$12,000 a year. That was a fabulous amount of money. They started at \$300. All the firms started at \$300 in Houston at that time. Judge Elkins raised people fast. That was nice. I resisted coming to work for Vinson & Elkins until my wife-to-be wanted me to come here and her father wanted me to come here. She told me that her brother who had been here for two years was making \$750 a month, which was an absolute fortune, so I immediately jumped [at the offer].

SS: *Did young lawyers have to work as many hours as young lawyers do today?*

JM: Yes, but there wasn't much thought given to it. We just worked. We worked half a day Saturday. It was just expected.

SS: *And I should say, it's my understanding that young lawyers today have to work fifty to seventy hours a week at big firms.*

JM: I doubt that. It's all on the computer. But my guess is that it's closer to 2,000 hours a year, which is about a forty-hour-week. I'd say the average is between 2,000 and 2,400 — anything above that is very unusual. But that's not to say they don't work hard.

SS: *Have you stayed in touch with the UT Law School?*

JM: Yes, I've been very close to the Law School. My grandfather graduated from law school in 1897. My daughter graduated from the Law School in 1976 or so. My other children have undergraduate degrees. And then my family was in politics. I helped to set up the A.W. Terrell Lectureship, and I filled out the amount necessary to do the Hines and Thelma Baker Chair. I have a great affection, from a personal standpoint, as well as from a professional or legal standpoint, for The University of Texas Law School. It's just a wonderful place. It turns out some wonderful lawyers and, more importantly, some great individuals. I've kept in pretty close contact with the Law School.

SS: *How important do you think the Law School Foundation has been in the Law School's ascendance.*

JM: I don't really know. I think it's been important. I'm embarrassed to say — and I'm not sure, but I believe — my father-in-law was the one who started the Foundation. In any event, he raised a lot of money for The University of Texas Law School.

SS: *Who was your father-in-law?*

JM: Hines Baker.

SS: *Oh really?*

JM: He and Tom Sealy and a lot of those fellows.

SS: *Yes, and Charles Francis.*

JM: Charlie Francis was at Vinson & Elkins. It was Vinson, Elkins, Weems & Francis. He was still around when I started, but just barely. I think the Foundation has had a very significant impact on the quality of the Law School. It has helped to raise money to keep good faculty. We do have a marvelous faculty. We always have had a good faculty.

SS: *The Law School was very good when you went to school, but it's just gained in prominence since that time.*

JM: It was very highly regarded when I was there. I just had a feeling that it was the best or among the top five best law schools in the country. I don't know how the "graders" stacked it up then, as opposed to how they stack it up now, but my impression was that it ranked very high. And it has continued to be ranked in the top ten today. Certainly it deserves to be. Since I've been [at Vinson & Elkins] so long, I've had the opportunity to be involved in the hiring process. Both from the standpoint of being the head of the General Litigation section and also from the standpoint of actually participating in recruiting. This may be subject to misinterpretation — so I don't know if I want to say it — but my comfort factor with University of Texas Law School graduates is higher than it

is with graduates of other law schools — and has always been higher. It's difficult to get into, it has a tremendous faculty, it's challenging, and if you get out — you're doing well — and if you get out with good grades — then you're doing extraordinarily well. From my perspective, having that background in Texas law gives an edge. It's probably not needed — but it gives them an additional edge. I just have a very high comfort factor with The University of Texas Law School graduates.

SS: *To what else — aside from the Foundation's support — would you attribute the Law School's success?*

JM: I think it's been well-managed. Good administration: through the dean and the faculty. I also have a sense that it's hard as hell to administer a bunch of professors. Obviously, there are personalities and conflicts, but that's just part of the academic life. Over the long term, the administration has done a really good job of keeping everything together. Also, it has some phenomenally impressive faculty. Charlie Wright is a delightful, wonderful, brilliant individual, who I've had the good fortune to work with in some matters. So, you have a school of luminaries and then just good quality individuals. I think they just keep coming along. Bill Powers is a great individual, and a wonderful teacher. This is kind of fun to look back and see what has developed over the years — and see it continuing to grow.

SS: *And it must be a nice feeling to have had some impact.*

JM: Yes, it's a very good feeling. Although, I can't say that I've had any impact on it. But I feel rewarded to have been a part of it.

SS: *Do you remember some of the assaults the Law School took in the 1960s? One that comes to my mind, was from the UT Board of Regents in the Legislature. Do you remember that battle?*

JM: Yes, I have a vague recollection of that. In my mind, I brush that legislative stuff aside because that comes and goes. One has to be very careful with the Legislature, because they have their hands on the purse strings and those egos get pretty big. For example, when you're a twenty-one-year-old who gets elected to the state Legislature, like Peppy Blount, who was in my class. But he was a delightful individual with a great sense of humor. I do remember that era. I also remember Homer Rainey — you know way back there — from time to time there has always been some kind of controversy that surrounds or arises out of the faculty — they are communist, or right-wing religious right — I guess we don't have any religious right, that's going a little too far. That just comes and goes, and I expect it will keep coming and going. That's not to say it's not important, because it certainly creates problems and has to be addressed, and it's a very delicate situation always — dealing with the people involved who are providing the money and teaching the classes. I'm sure there is going to be another crisis that's going to come up.

SS: *What do you think it's going to be? Does the Hopwood case at all qualify as a crisis?*

JM: Well, I think [it] has caused the spotlight of attention once again to focus on the University. I wouldn't regard it as a crisis. I put it at a higher scale of significance than some of these other matters, perhaps because it is more recent. And it does involve more personal philosophy and attitude than some of [the] other incidents in the past. It involves political matters as much as legal matters. Is it still alive?

SS: *I was just wondering that myself. I thought that the University was still challenging the ruling.*

JM: Vinson & Elkins handled that. I think the Supreme Court denied *certiorari* on it. And that brought that particular case to a close. Although, it didn't bring the issue of affirmative action to a close. I'm sure that will continue to provide some controversy for the foreseeable future.

SS: *Yes, we continue to struggle with how to bring more diversity or equality into our institutions.*

Well, is there anything we haven't covered? Any humorous stories?

JM: There are a jillion humorous stories, but some of them are better left unrecorded. I think that pretty well covers it. But I'm sure it's like arguing a case, when you're walking away from the courthouse you think, "Why didn't I say that? Why didn't I tell them this?" So, I'm sure I'll think of some other things that I've forgotten to say in this opportunity, but I can't think of anything now.

SS: *Now, that you bring that up, I have another question. Are there any cases that stand out in your mind in your career that you'd like to mention?*

JM: Yes. I've had the good fortune to be involved in fantastic cases, wonderful cases.

SS: *Are there one or two that stand out?*

JM: The ones that stand out the most are the most recent ones. There are about a half dozen very fascinating cases. There were a couple of United States Supreme Court cases which I argued, and in which Charlie Wright worked with me in writing the petition for writ and the brief. I guess that was the most fun I ever had: arguing a Supreme Court case and trying an original jurisdiction. That is where two states are against one another and the Supreme Court has original jurisdiction. So you try it theoretically before the Supreme Court, actually they appoint a Master. The trial involved ownership of an island in the Mississippi River and the boundary between the states of Louisiana and Mississippi. It was really a fun case. Of course, I'd known Charlie Wright by reputation; he had worked a lot with Vinson & Elkins. So, I had the privilege of working with him on that case and fighting with him over commas in briefs. [He was] unyielding, one might even say stubborn.

SS: *Who won?*

JM: I always gave up. [Laughter.] Just because he was wrong, didn't mean I was going to be as stubborn as he was. That was one great case. I really have been extremely fortunate. I've had some landmark oil and gas cases that I've argued. *Sun v. Jackson* and *Reed v. Wiley* — those are major cases in the field of oil and gas matters.

SS: *They changed the law?*

JM: *Reed v. Wiley* was a significant case as was the *Sun v. Jackson* case. One of these days I'll put something down for my grandchildren. It would be kind of fun.

SS: *Yes, that's a good idea. It's nice to see someone who enjoys their work and who got to be at the top of their profession. I assume when you argue before the Supreme Court, that's where you are.*

JM: That is the ultimate. It really is. Not many people get that opportunity twice, unless they're in the business in Washington, D.C. And I have had that opportunity. It's an interesting feeling because the Court is very close to the podium, so you are right there. Not much farther than you and I are now. Having this exchange with these extraordinarily intelligent people, who are even more extraordinarily briefed. They know more or as much about your case as you know. Both from a factual standpoint, and certainly more from a law standpoint. So, it is a marvelous experience. And I've had three cases before the United States Supreme Court where I was "counsel of record," which is lead counsel. I've just had one, *Exxon v. SOFEC*, which I've visited with Bill Powers about. It was a landmark admiralty case. It was just decided in March of this year. Those are the ones that have been the most fun. There have been a host of others.

SS: *And they went well?*

JM: They didn't all go well. I've made good arguments and I've made rotten arguments. I have this test that is almost invariably accurate. (It tells) whether you did well or not. When you get through arguing, if your clients are looking at their shoes then you know you really did a rotten job. They can say, "You did good." But if they are looking at their shoes, you didn't do good. Now, if they are looking at you and smiling, then that (says you did good).

SS: *Well, for any prospective law student who is reading this transcript that will be good advice.*