

Arizona Bar Foundation

Oral History Project:

Arizona Legal History

Interview with Elias M. Romley
James F. McNulty, Jr., interviewer

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ARIZONA BAR FOUNDATION ORAL HISTORY PROJECT: ARIZONA LEGAL HISTORY

HISTORICAL NOTE

Although Arizona was frequently referred to as "the Baby State," due to its twentieth-century entry into the Union, the history of the legal profession in the state is rich and colorful. In the earlier days, lawyers were mostly self-educated men, who practiced alone, or with one partner at the most, and spent much of their professional time alternately defending and prosecuting some of the most colorful characters of the Old West, and trying to collect on bills from people who had come West to escape their creditors.

Through the first half of this century, some of the nation's finest lawyers took up practice in Arizona. As the state's population grew, a law school was added to the University of Arizona and lawyers formed an integrated state bar in 1933. After World War II, the state exploded in development with the rest of the Sun Belt, and the law profession kept up with this growth, experiencing many changes in the process.

Today, there are law firms in Phoenix and Tucson which employ upwards of 100 attorneys, who may specialize in fairly narrow areas of practice. Half of the students in the state's two law schools are now women. Over the years, Arizona's influence on legal matters at the national level has been significant. Several landmark cases have originated in Arizona, such as *In Re: Gault*, and *Miranda*. Arizona can claim the first woman to sit on a state Supreme Court: Lorna Lockwood. Two members of the State Bar now sit on the U.S. Supreme Court, one as the Chief Justice and the other as the first woman to be appointed to the Supreme Court.

However, because Arizona is a young state, there are still attorneys living who knew and remember Arizona's earliest legal practitioners during Territorial days. Many of these senior members of the Bar practiced or sat on the bench before the profession, and indeed society itself, experienced the changes of the last forty years. In an effort to preserve their memories, the Archives Department of the Arizona Historical Society/Tucson developed the **Evo DeConcini Legal History Project**, an oral history project. From 1986-1988, twenty-one oral history interviews were conducted, focusing on the reminiscences of lawyers and judges in the Southern Arizona area.

In 1987, the Board of Directors of the Arizona Bar Foundation expressed an interest in continuing to document the history of the legal profession in Arizona on a state-wide basis. In particular, the Board felt that the collection of oral history interviews with senior members of the State Bar would stimulate scholarship and publication on various topics

relating to legal history, such as water rights, land use and development, and civil rights, as well as on the history of individual firms and the State Bar, itself. The Bar Foundation and the Arizona Historical Society/Tucson agreed to work together to expand the DeConcini Project statewide, calling it the **Arizona Bar Foundation Oral History Project: Arizona Legal History**.

Raising funds for two interviews initially, the Bar Foundation designated that the first two recipients of the Walter E. Craig Distinguished Service Award, Mark Wilmer of Snell and Wilmer (1987), and Philip E. Von Ammon of Fennemore Craig (1988) be interviewed in October, 1988. Both interviews were conducted by James F. McNulty, Jr., who conducted most of the interviews for the DeConcini Project.

Because it is open-ended, it is not possible to fully define the scope and content of the Arizona Bar Foundation Legal History Project. However, in order to achieve the greatest depth and balance, and to insure that many viewpoints are represented, every effort is made to include both rural and urban practitioners, male and female, of varying racial and ethnic perspectives. Interviews are conducted as funds are made available. Transcripts of the interviews are available to researchers at the Arizona Historical Society in Tucson, the libraries of the Colleges of Law at the University of Arizona and Arizona State University, and at the Bar Center, in Phoenix. The Historical Society is also cooperating with the Ninth Judicial Circuit Historical Society in making copies of interviews with Arizona lawyers and judges from their project available to researchers here in Arizona.

The Arizona Bar Foundation Legal History Project is important not only because it is documenting the history of the profession in Arizona but because legal history encompasses every aspect of society's development. To study legal history means to study land development, environmental issues, social and educational issues, political history, civil rights, economic history--in short, the history of our society. All of these topics are, and will continue to be developed in these oral history interviews. They may be seen as a valuable and unique supplement to the written record as scholars begin to write the history of the legal profession in Arizona.



Elias M. Romley

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Introductory Note

Elias Romley granted this interview to the Arizona Bar Foundation Oral History Project on November 8, 1990. James F. McNulty, Jr. was the interviewer.

All Arizona Bar Foundation Oral History Project interviews are tape recorded and transcribed. Researchers wishing to listen to the interview may do so at the Arizona Historical Society Library, Tucson. Please ask for interview *AV 0412-16*. Copies of this transcript are sent to the narrator, the interviewer, the Arizona State University School of Law, the University of Arizona School of Law, the Arizona Bar Center and the Ninth Judicial Historical Society, Oregon. All original materials are housed at the Arizona Historical Society Archives, Tucson.

Elias M. Romley Interview

McNulty: Today is Thursday, November 8th, 1990. It's our great pleasure and honor to be with Elias Romley, one of the giants of the legal profession in the state of Arizona. For the Arizona State Bar Foundation Oral Legal History, I'm Jim McNulty. Elias, thank you for the time and for this opportunity.

Romley: I'm the one who feels honored in being interviewed, especially by a person like you, Jim. Thanks for doing it.

McNulty: Tell me where and when you were born.

Romley: I was born in Phoenix, Arizona, on January 1, 1909, New Years Day. I remember it well.

McNulty: Were you an only child?

Romley: No. I had two brothers and two sisters.

McNulty: Had your family been in Arizona very long?

Romley: Yes. They came to Arizona about the turn of the century.

McNulty: Were your parents born in Arizona?

Romley: No. My parents were both born in Lebanon.

McNulty: Were they?

Romley: And went to New York as youngsters and then moved to Arizona, as I say, about the turn of the century. There were two children, who had died, ahead of my sister. I was the fourth. So there were initially seven children, but some died shortly after birth.

McNulty: What kind of work did your father do?

Romley: He had a small, general merchandise grocery store. I remember there was one at Sixth Street and Washington here in Phoenix and then he moved later to a small store with a house behind it, a connecting house, which was located at Ninth Street and Jefferson. That's where we were raised.

McNulty: Were all the kids expected to work in the store?

Romley: Oh, yes, and we did. It's the best thing we ever did.

McNulty: Was this a line of business your father had been in before?

Romley: Yes. Well a lot of the people who came over here, immigrants as they were, used to travel peddling merchandise, dry goods, and there were quite a few of them who did that.

McNulty: Did your parents come to Arizona for health reasons or just opportunity reasons?

Romley: I think just opportunity.

McNulty: Were there relatives or other Lebanese families that they knew?

Romley: There were many Lebanese families here, yes, and some still here, some passed on of course. That was a long time ago. Eighty years ago, Jim. Eighty-two years ago.

McNulty: You went to elementary and high school here in Phoenix?

Romley: Yes, I went to the Washington [Elementary] School, which at that time was on Ninth Street and Washington. Incidentally, Joe [Joseph S.] Jenckes lived just a couple of doors from there on Washington Street, just east of the school. He went to that school. And I went to Monroe School for the fifth, sixth, seventh and eighth grades, which was just south of Van Buren on Seventh Street, and it still exists. It's been converted into an office building. From there, then, when I graduated I went to Phoenix Union High School, which consisted of just two or three buildings and that grew rapidly to more than that.

McNulty: You graduated from Phoenix Union?

Romley: Yes.

McNulty: In what year?

Romley: In 1926.

McNulty: After that was it off to the university?

Romley: No. I went to the Phoenix Junior College then, which was located just north of Polk Street, which is a block north of Van Buren, on Seventh Street. You will recall seeing the stadium that was there, it's been torn down since. But just behind the stadium, so to speak, was an old home, a two-story home that was converted to the college. That's where the Phoenix Junior College started. And I was there for two years.

McNulty: Had any member of your family ever gone beyond high school education?

Romley: No.

McNulty: Did you spend two years there?

Romley: I went two years there.

McNulty: Was it with a mind to that being a preface to further education, or did you think that was probably all the schooling you would take?

Romley: Well, I really didn't give it any thought, Jim. If I had given it some thought, I was interested in an education. My parents were interested in seeing that all of the children got an education. But they didn't really have—

McNulty: So you completed Phoenix Junior College in nineteen—

Romley: In 1928.

McNulty: Then was it off to the university?

Romley: Yes, then I went to the university. You may recall they had that combined six-year course. You could go three years to the university liberal arts or whatever and then your fourth year could be your freshman year in law. Then you take that ensuing two years in law there. Six years combined. That's what I did.

McNulty: Did you get two degrees then?

Romley: I got an A.B. degree in—my major, I think, was economics. But I got my A.B. degree at the end of my freshman year in law. Then two years later I got my LL.B. in 1932.

McNulty: That's the time of the Depression.

Romley: That's right.

McNulty: Was your father still in business here?

Romley: Yes.

McNulty: Was it hard times for everybody?

Romley: Yes, I guess you could say that. They weren't real good times, for sure.

McNulty: Were you the first person in your family as far back as you can go that received a college degree?

Romley: Yes, as far as I know.

McNulty: When you graduated in 1932, you took the bar, I assume, shortly after. Was that in the days when you took the bar and they gave you the results all in the same day?

Romley: No it was not. If you want I can expand on that a bit. The bar exam at that time was over a period of two days. It was given in late June of 1932 and we didn't get our news as to whether we had passed or not until early September. I was sworn in on September 17th, 1932, and my son Arthur [E. Romley] on the same day thirty-four years later, in 1966.

McNulty: Between the time that you graduated and you were admitted to practice, were you working for a lawyer anywhere?

Romley: No.

McNulty: Or helping your father maybe?

Romley: No, no. One thing that I did in the summertime—I don't know how far back you want me to go, Jim. Maybe if I'm expanding too much you can stop me.

McNulty: No, no. Go ahead.

Romley: When I decided to go to law school, I talked to my father about it and he was disappointed. He wanted me to be a doctor. I wanted to go to Harvard Law School and he said, "No. If you'll be a doctor, I'll send you wherever you want to go. If you're going to go to law school you're going to have to stay in Arizona." That's the best thing that happened to me as I look back now.

So in the summer months while I was still in high school, I worked for a bakery here in Phoenix. I drove one of these bakery trucks delivering pies and cakes and bread to grocery stores in the area. Then when I had made my deliveries I'd work in the shop and also at the front of the bakery as a salesperson.

While doing that, one of my customers, or one of the bakery's customers was the Bayless Markets which were owned and operated by A.J. Bayless' father. A.J. and I were acquainted of course, knew one another, both went to junior college and were friends. I became well acquainted with his father, J.B. Bayless, and Mrs. Bayless, she worked in the store there. She was a cashier. And we used to deliver bread. I can remember bread selling at three loaves for a quarter. Pies about two for a quarter. Can you imagine that today, Jim?

When I decided to go to law school, I remember Mr. Bayless telling me—he always called me Room-ley, I don't know why, he and Mrs. Bayless both—he said, "You're making a big mistake, Room-ley. You ought to stay here with me in the grocery business. You're not cut out to be a lawyer. You're cut out to be a groceryman." Well, I went to law school and I never looked back and it was fine.

McNulty: As soon as you were admitted in the fall of 1932, what did you do?

Romley: Well, before, while we were waiting for the examination results, Joe Jenckes and I, we were friends. Joe had gone to law school and in his freshman year at the U. of A. became ill and dropped out of school and studied, remember the old La Salle Extension Course. You may remember that.

McNulty: Yes.

Romley: He was a good student and a very bright mind. Joe and I took the bar together and we were talking about what we were going to do during the period we were waiting for the results of the examination. Well, we both wanted to make a connection with a firm, which was a natural thing. Firms in those days were six, eight or ten people, big firms were. So we struck a bargain, if we passed, either one was free to accept a job as offered, but if we were both available, didn't both get a job, we would form a partnership. I can remember Joe and I going into what was then known as the Fleming Building at the northwest corner of Washington Street and First Avenue. There were several firms there, the old Fennemore Craig firm. Old L.C. McNabb was personal injury lawyer who at one time had two or three hundred thousand dollars in verdicts on appeal and lost them all.

McNulty: Was that the place where Kramer, Morrison, Perry and Roche was?

Romley: No. That firm was in the First National Bank Building on Washington Street and Central Avenue, southeast corner, just opposite the Patriot's Park now. So as it happened, Joe was grabbed off by Ellinwood and Ross.

McNulty: I'll be darned.

Romley: Joe was the high man in the bar. I think his grade was around ninety-four, it was either ninety-two or ninety-four. It was a good grade. I happened to be lucky enough to tie for third. So Joe and I were talking after he had gotten his offer. He said, "What are you going to do?" I said, "I don't know. I don't know any lawyers here." Joe said, "You ought to go and see Moore and Shimmel. They are attorneys for the Superintendent of Banks in the liquidation of what was then known as the

Arizona Bank" Not the same Arizona Bank we came to know later. So he said, "They might have some business there." That firm had been in existence for some little while. It was a three-man firm, James R. Moore, Blaine B. Shimmel, and Andrew R. Lynch, Andy Lynch.

Andy had been in the attorney general's office. He was from Clifton or Morenci or someplace somewhere in that part of the state. He was working in the office, three hundred dollars a month, for a man in his forties or fifties. But that was good pay in those days. He was a terrific office man. He wouldn't be worth a darn in the courtroom. I don't think he ever wanted to be a trial lawyer, but he was good in the office.

So I went in and introduced myself to Mr. Moore. At the time I was president of the Young Democrats and was interested in that. So I introduced myself to Mr. Moore, hit him up for a job, told him I was going to this convention of the Young Democrats in Georgia. That was the year Franklin D. Roosevelt was elected. And he said, "Well, why don't you come back and see me when your convention is over." He said, "I don't think we'll have an opening, but we've got an office here." They had three offices and they were all occupied by the two partners and Mr. Lynch, and they had a small library that wasn't much larger than this room and they had some books in it. He said, "We don't have a job here, but if you want to you can come in here and have a place to hang your hat. You can do errands for us, small things, we can turn over what we don't want to handle or can't handle to you, and you can handle it. You won't be on a salary, but your fees are your own. You've got no overhead, you'll have the use of the office and the stenographer." They had two stenographers then. And that's the way I started, Jim.

In the first year, I remember my first fee came from a small collection item on behalf of my wife's uncle, and I think it was five dollars. But by the end of the first year I had made about a thousand or fifteen hundred dollars, which pleased me very much. The second year I think

I made about five thousand dollars, which in those days was a lot of money! And I've never looked back since.

McNulty: How long did this arrangement with Moore and Shimmel continue?

Romley: Well, the firm was dissolved in January 1937. Each of the partners asked me to go stay with them. I didn't know what to do. I debated it for quite some time. They said, "We're in no hurry. Just take your time with it, but we'd like to have you." Each talking to me separately. Finally I decided to stay with Mr. Moore. Mr. Shimmel went on and later formed a partnership with the Hill brothers [George M. Hill and Rouland W. Hill]. The firm of Moore and Romley was born in 1937 and we remained partners until his death in 1963. He was not well in his later years, in fact he was bedridden for about two years.

McNulty: Did you two expand at all over that period of time?

Romley: Not very much. We remained a two-man firm. I can't remember if Andy Lynch stayed with us. I think he did. Then he left.

McNulty: At one time, didn't Tony [Anthony T.] Deddens join this firm?

Romley: Yes, Tony did. Tony wasn't a partner.

McNulty: I see.

Romley: We hired Tony away from the attorney general's office in the late forties. I think it was the late forties. Later judge, Ross [F.] Jones was the attorney general and Tony was a deputy under him. He stayed with us for, I don't remember, a year or two, and then decided to go back to Bisbee and later became judge in Bisbee, as you know.

McNulty: Yes. Did Moore and Romley practice general law?

Romley: Yes. It was general corporate, civil, probate law. No criminal law.

McNulty: Did you do the litigation for the firm?

Romley: Both of us did. Mr. Moore was very active. The year before I went into that office he had been president of the State Bar. In those days they elected the older generation to high office in the Bar. That hasn't happened since. I can remember, I carried his books and stuff like that to court. I remember one time John Mason Ross was representing—I think it was

called the Northern Arizona Securities Company—in connection with some litigation with the Arizona Bank which, as I said, was in receivership. John L. Gust represented somebody. Now these are real giants of the Bar in those days. I remember one hearing in court, Mr. Moore was there alone on his side and there were four or five top-notch lawyers opposed to him. I was there in court with him. This was before we became partners, I think. I remember walking back from the courthouse, we were only a block from the courthouse at that time, the office was at First Avenue and Adams Street, and I said, "You sure had a lot of opposition today." He said, "I'm never happier than when I've got a lot of people against me."

McNulty: Did Moore and Romley stay, as we would think of it these days at least, relatively small by choice?

Romley: Yes, I think that's right. I don't think we ever grew to more, while Mr. Moore was alive, to any more than five or six people. For a while Harold [R.] Scoville, who later became a judge, officed with us and paid a small rent. His brother Kenny [Kenneth S. Scoville] did the same. Paul [M.] Roca became a partner. He had been in Washington as administrative assistant or in any event some position with Carl [T.] Hayden, Senator Hayden, and he came and worked for us and became a partner. Then he left to form Lewis & Roca. Then after that, I guess Tony [Anthony T. Deddens] was the next man to come in. Bill [William P., Jr.] Mahoney was employed by us until he was elected county attorney which was in the early fifties, mid-fifties maybe. The last person I remember we hired before Mr. Moore passed away was Phil [Philip A.] Robbins, who worked for us for a while. But we never grew to more than four or five or six in those days.

McNulty: Did Mr. Moore have a reputation for being very competent in doing appellate work?

Romley: He had a reputation for being a very able lawyer. I'm not sure that his the reputation was in the appellate field. I never heard of him mentioned in that way. His expertise was, I believe, in water law. Early on, he

represented the state of Arizona as attorney for the Colorado River Commission. That was in the mid-thirties. He did do some important appellate work, the old *Southwest Cotton Company vs. Beardsley* case had been tried. He told me the story once that he and Ernest Lewis, Judge Lewis they called him, Orme's dad, were trying the case in the superior court. The story as I recall is that Lewis died during that trial. Mr. Moore finished it and it was appealed and I remember he took a secretary from the office—this was before my time, the story that he told me—that he and the secretary went to Santa Barbara and spent the better part of a summer there writing a brief. He could write very well. It was a good brief. He was a good clear thinker. I can remember going into his office and talking to him on some legal problem and the answer would come back to me just like reading it out of a book. He was good. He was a top-notch lawyer.

McNulty: The war years, how did the firm handle that period of time?

Romley: It didn't seem to affect us any. It didn't seem to affect us any at all.

McNulty: The great growth of Arizona that began right after World War II, did that have an effect on your clientele, the quantity of business that you did?

Romley: Yes, to some extent. We never really went and sought out business like so many do. It's not that I criticize that at all, but just the fact that we just didn't do that. But we kept busy. I remember one of his important clients was the Goodyear Tire and Rubber Company which owned the Southwest Cotton Company here, that I mentioned earlier.

An interesting thing about charges today, I saw some correspondence in the office there. Mr. Moore had a fee arrangement with Goodyear. It was that he would perform the services that were required in the office or in litigation with a going charge of ten dollars an hour and that was to apply on the ultimate fee. It included travel time, he was paid for that, if he had to go on the train—the planes weren't available, I guess they had been invented but they weren't in the use they have become since.

I remember one case he told me about that he was trying. A former lawyer of Southwest Cotton Company had sued Southwest Cotton Company and Mr. Moore defended. He got his client off either right after the opening statement, or maybe after the plaintiff rested. He came back to the office and with Paul Litchfield, the president of the Goodyear Tire and Rubber Company, who attended the trial. Mr. Litchfield said "Jim, you did a great job there." He was just tickled pink and said, "Send me a bill." Jim said, "How much do you think it should be?" The former lawyer had sued him for a hundred fifty thousand dollars. Mr. Litchfield replied, "Well, send me a bill for fifteen thousand," which was a hell of a lot of money in those days. Mr. Moore jokingly told me, "After that, I always let my clients fix their fee."

McNulty: Litchfield is the person for whom the town of Litchfield Park is named.

Romley: Yes.

McNulty: Was your firm involved in some of that?

Romley: Yes. Well, the firm, he had represented them for years before that. When they came to Phoenix, by the way, they used to be a client of Armstrong, Lewis and Kramer. I mentioned Judge Lewis a while ago.

Is this too detailed, Jim? If it is, stop me.

McNulty: No, no.

Romley: But Mr. Moore went to work for Armstrong, Lewis and Kramer just before or just after the early twenties. They didn't have an opening. He could take shorthand so he said, "Well I can be a secretary in here." They hired him as a secretary. That was one of the outstanding firms in the state then, Armstrong, Lewis and Kramer. The firm later became Kramer, Morrison, Roche & Perry. And then, as you know, it branched off since. Burch, Cracchiolo and Streich, Lang are spin-offs of that firm.

McNulty: Yes.

Romley: He told me he had been wanting to increase his four hundred dollars a month salary to five thousand dollars a year, but the firm would never give him that extra two-hundred-dollar-a-year raise. He was in court one

day representing the Superintendent of Banks in a transaction—this was before I was there. The partners had determined on a fee which they were going to ask the court to allow in the receivership proceeding. Mr. Moore came back from court with an order allowing several thousand dollars more than the firm had agreed upon. And he told them, "Now do I get my two hundred dollar raise?" He was quite an interesting man.

McNulty: So he died in 1963?

Romley: In 1963, yes.

McNulty: So that gave you some decisions to make. You wanted to continue the firm?

Romley: Yes. I forgot to mention, I was telling you who came in to work for us and who became partners. In the early or mid-fifties, I think it was the early fifties, Jack [John H.] Killingsworth came to work there and the following year, Jerry [Jarril F.] Kaplan, and we changed Moore & Romley to Moore, Romley, Killingsworth and Kaplan. In about 1963, Jack left, Phil Robbins and Bob [Robert H.] Green became partners and the firm name was changed to Moore, Romley, Kaplan, Robbins & Green. In 1972 Jarril Kaplan left. In 1973 Phil Robbins and Bob Green left. They all splintered off into their own firms.

The largest we ever got, getting back to your question, was about eighteen or nineteen back in the early seventies. That's the most we had. Sometime later others came along.

McNulty: Today you are what? Just you and your son Art [Arthur E. Romley]?

Romley: That's all, yes.

McNulty: That's a conscious decision on your part that you don't want to be administering a big firm?

Romley: Well, I don't want to be even a part of a big firm. When Moore and Romley was dissolved in 1978 or 1979, I think 1979, I left the firm. It was the easiest way out of a situation. Arthur [Romley], Ken [Kenneth J.] Sherk, and Roger [T.] Hargrove, who had been with the firm only two or three years went with me. So we formed the firm of Romley & Sherk.

It grew to six or eight at the most. We were together until March of 1985, when overtures were made by Fennemore Craig to merge or to have us all go over. At that time I was seventy-six years of age, and I told my people, I wasn't interested in being in a big firm. It was too late in life for me to get involved in one. I could never change my ways. And I said, "If you fellows want to go, don't hold back on my account. It's fine with me." I think I would have felt guilty if I had kicked the bucket or retired completely as I was thinking of doing, and not having them carry on. Of course they were doing an excellent job. They were and are good lawyers. We had a good practice. I urged them to go if that's what they wanted to do. And that's what happened. Cal [Calvin H. Udall] said, "Why don't you come over? You can be of counsel and do as little or as much as you want to do."

McNulty: Are you working on a full-time schedule?

Romley: Yes.

McNulty: Every day?

Romley: Every day, six days a week. I'm eighty-two or will be eighty-two New Years Day.

McNulty: Are these clients people that in many cases you've represented a long, long time?

Romley: Yes. Arthur is doing most of the work now. I'm not taking on anything new. I'm helping him with some of his cases. We have an extremely interesting case now that's going on, that's taking a lot of time.

McNulty: Is it still fun?

Romley: Yes it is. But I find that I haven't the patience to do the detail work that I used to. I used to love to do research and loved to write briefs. Now I struggle through that. I guess that's what comes with old age. But I still enjoy the practice. I don't golf, I have no hobbies. If I retired completely I'd just wither and die.

McNulty: Has the practice of law changed over the last fifty years?

Romley: Yes. Too much.

McNulty: Too much what?

Romley: The change is too much. I regret to say this, but I think that the practice of law has almost become, maybe has become, a business rather than a profession. That's what I regret about it. I don't know whether that's been your experience or not.

McNulty: What's the fallout from that? What's disagreeable about that?

Romley: Well, there are so many people that practice law in a way that runs counter to what I think should be done.

McNulty: Is there too much emphasis on billing hours and the like?

Romley: That's another gripe of mine. I think that many times some lawyers engage in senseless and costly paper wars and unnecessarily log time. The result, of course, is that litigation has become much too costly. I think that's wrong.

McNulty: Once in a while I think that we are going to price ourselves out of the business and that society is going to find another way to settle its disputes more cheaply.

Do you think that the ethical relationships between lawyers, the kind of "Your word is your bond" sort of philosophy is as prevalent today as it was forty or fifty years ago?

Romley: You mean is it as good?

McNulty: Yes.

Romley: No. I can remember in the olden days, there was one man, and this is not disparaging, it is complimentary. I don't know whether you knew him. He was not a pillar at the Bar, wasn't anyone who was very highly regarded, but when he told you something he lived up to it. In fact, when another lawyer would say to him, "Well now you told me thus and so," he was known to respond, "I sure don't remember it that way, but if you say so, that's it." Now you don't find many people like that anymore.

McNulty: No.

Romley: His word was his bond and he was proud of it. Now it may be, I don't know and I have no reason to suspect it, maybe some people took

advantage of that. But he was very proud of the fact that, by god, when he'd said something he'd stay with it.

McNulty: Has the bar changed with the admission of a number of women into the practice? Have you had any personal experience?

Romley: I don't have any personal experience and I hesitate to say what I think. There are some very good women lawyers and very good woman judges, then again there are some who do not fit that mold. The same is true, of course of the male lawyers.

McNulty: Elias, you've had some cases over your career that have kind of stuck out in your mind, I'm sure. I would hesitate to suggest which ones they should be, but why don't you tell us a couple of things that were of more than passing interest in your career.

Romley: Well, I remember one case that I tried in Tucson, by the way, before Judge [James A.] Walsh, who incidentally is the finest judge I think I've ever had the pleasure of appearing before. He was a great person. We tried a case there. It took about two weeks, I think, which in those days was a long trial; not today. I think I wrote a memorandum to him and it came to thirteen pages. Prior to that memorandum, if I wrote one that came to thirteen pages, I would add or subtract a page. I remember on one occasion, I called the page twelve-A. Sometimes I did those things.

It happened that we rested, it was a court trial not a jury trial, on Friday the thirteenth. It was taken under advisement and ultimately decided in favor of my client. The Ninth Circuit affirmed.

In that case, one of the defendants lived in Albuquerque and I wanted to take his deposition before the trial. I contacted the father of a classmate of Arthur's who was in the same business as the defendant in Albuquerque. I told him I was going to be in Albuquerque and I'd like to see him, I wanted his opinion about the defendant who lived there. He said, "Fine, I'll be glad to talk to you." He said, "I know a good deal about him." This never came out at the trial because it wasn't pertinent.

So I visited with this fellow, this friend, acquaintance, and I said, "Tell me something about him. What kind a man is he? Is he honest? Do you think he'll tell the truth when I examine him?" He said, "Well I'll tell you what kind of a man he is. After you shake hands with him you need to count your fingers." He really said that to me. I've never forgotten it.

He told me another thing, that the defendant had gone from Russia to France and then came to the United States. And the story, he said, that made the rounds—and he didn't vouch for it—he said, "I don't know whether it's true or not. The story is that when he came over here he had a lot of jewelry inserted in his abdomen with a pouch and brought it over that way." Now that's hard to believe, but that's what he told me. It was an interesting case.

McNulty: You mentioned Judge James Walsh favorably, the federal district court judge in Tucson, but you've been in front of an awful lot of judges over the last fifty-some years. Are there others that stand out in your mind for their skills?

Romley: Yes. The most recent one was about six or seven years ago: Judge Fidel, Noel [A.] Fidel who was a superior court judge. He hadn't been on the bench long and later went to the court of appeals where he now sits. I was extremely impressed with him and his ability. He runs a nice court. He doesn't dress down lawyers as some are prone to do. You get a courteous hearing, but he knows what he's doing, he knows the law. In recent years, he's the most outstanding that I have appeared before. Now there are certainly a lot of others. I'm not in court very often now.

McNulty: You argued a number of cases to the old Arizona Supreme Court before the establishment of the court of appeals. Did any judges there particularly stand out in your memory?

Romley: Judge Ross, Henry [David] Ross who I believe became a Justice of the Supreme Court right after the admission of the state. He was a very able

lawyer, a very good judge. He was still on the bench when I started practice in 1932.

I felt the same about Judge Alfred [Collins] Lockwood, Lorna's [Lockwood] father. He came up from Bisbee, didn't he?

McNulty: He did indeed. Yes.

Romley: When you read his opinions you knew he went into a case thoroughly. He wrote extensive opinions, probably many of them too long, but he was learned in the law and he wrote well. He was an interesting person to appear before and argue and respond to as far as questions are concerned.

McNulty: Some of his opinions are used in casebooks even today in law school.

Romley: Is that right?

McNulty: Yes.

Romley: He was quite an interesting man. I remember something now, an anecdote. It comes to mind because a former Supreme Court justice was involved.

Back in the early or mid-forties, no it must have been later than that. Yes, it was later than that. I had a case to defend for an insurance company—I did a lot of defense work for insurance companies—in Prescott, and Judge Patterson, W.E. Patterson, who was the only judge in Yavapai County at the time, didn't sit on the case. I don't remember why. Renz [L.] Jennings, who had recently been appointed to the superior court here, was called to sit on that case. It was a jury trial. It involved a service station in Clarkdale or Cottonwood, I don't recall, that had been in a fire. Judge [F.C.] Struckmeyer, Fred's [Fred C. Struckmeyer, Jr.] dad, represented the co-defendant, so we were on the same side. And Joe [Joseph H.] Morgan, who had been on the Supreme Court, represented the plaintiff. The first day or two, every objection either Judge Struckmeyer or I made was overruled which, of course, pleased Judge Morgan. After a day and a half or so the tide turned and it was Judge Morgan's objections which were being overruled. On one such occasion, after several of his objections had been overruled Judge Morgan stood up and said, "Your Honor, I'll have you know that I have been trying cases

in this court for more than thirty years and I have never, never been reversed by the Supreme Court." Judge Struckmeyer, seated beside me, then stood up and said, "That must have been when Pat [Patrick William] O'Sullivan was your partner." This, before the jury.

McNulty: Talk about good lawyers, who are some of the lawyers over this long career that you have seen in action and whose abilities you've admired?

Romley: Well, one of the most outstanding, I think, is Mark [B.] Wilmer. I have a very high regard for Mark. I think he's a very able lawyer. I've tried a lot of cases with him and he's whipped me sometimes and I've won a few. I've taken my beatings at his hand but I still respect him. You don't respect or not respect a lawyer because you can beat him or he can beat you.

McNulty: What are his strengths? Preparation, presentation, argument to the jury?

Romley: All of that. And he has a nice manner about him. He's got a soft touch, so to speak. I think he impresses a jury, for instance, with his sincerity and the judges, I think, respect his ability. I don't think Mark would ever do an unethical thing in his life.

McNulty: Are there any other lawyers that particularly stand out in your recollection?

Romley: Well, I can remember the old days: John L. Gust and John Mason Ross, people of that stature.

McNulty: Denison Kitchel described John Mason Ross as being a very human decent kind of fellow who would—

Romley: You could sit down and talk with him.

McNulty: Yes. Be friendly with.

Romley: Yes. Dave [W.] Ling was another good judge.

McNulty: It's funny you should mention him, because Denison Kitchel mentioned him this morning too.

Romley: Is that right?

McNulty: Now he was over in Greenlee County originally.

Romley: Yes, I know. He was appointed to the federal bench, I think, in 1937 or 1938.

McNulty: I see.

Romley: He used to try a lot of cases here. I've tried several before him. Oh, wait a minute, that reminds me of something interesting.

I had a wrongful death case for the plaintiff and Mr. Moore was with me on it, he assisted me. We were in court on Judge Ling's law and motion day resisting a motion to dismiss. Mr. Moore argued on behalf of the plaintiff and when he sat down I leaned over and said, "Do you mind, Mr. Moore, if I make a few remarks?" He said, "Go ahead, go ahead." I got up to argue and Judge Ling looked down at me, "Sit down young man, I don't have to listen to the both of you." He was an interesting character. A fine judge. A fine judge.

I can remember one time when Mark Wilmer and I had a case before Judge Ling. Mark represented the plaintiff and I represented the defendant who owned the Gainey Ranch, north of Scottsdale on the east side of Scottsdale Road, about three miles south of Shea. Well, Gainey's neighbor from across the way, on the west side of Scottsdale road, had a cotton crop and Gainey sued him claiming that his cattle were damaged by a low-flying airplane with pesticide. As I say, Mark represented the plaintiff and I represented the defendant through the insurance company. We were in chambers, Ling's chambers, who had disqualified himself because Perry [M.] Ling had recently gone in with Snell and Wilmer. So he called in Leon Yankowich. You may have heard of him, he was a U.S. District Court Judge in Los Angeles.

McNulty: I have.

Romley: A fellow about five feet tall, bald, needed spectacles. When he was on the bench, always looking down as if he's reading a book. So I didn't know him, had never seen him, the same was true for Mark, so one or the other of us asked Judge Ling in chambers when we were discussing something about the case and one of us asked him, "Well what about this judge? Is

he a good judge?" He said, "Well, let me tell you. They tell this story about him," he says, "and I think it's true. Two lawyers were arguing a case before him in Los Angeles and one lawyer, reading from a book and not looking at the bench, suddenly looked up and not seeing anybody on the bench, and said, 'Where did that little son-of-a-bitch go?' And from the back of the room Judge Yankowich called out 'Here I am.'" That's a story, isn't it?

McNulty: Well, you couldn't accuse him of too much arrogance or vanity. Your professors at the University of Arizona College of Law, do you remember some of them?

Romley: Yes. My favorite was Chet [Chester H.] Smith. I had a very high regard for him. He was there, I guess, when you were.

McNulty: He was.

Romley: McCormick, I had a high regard for [James B.] McCormick. McCormick taught pleading and contracts. My freshman year in law Chet Smith came there, his first year there. Floyd Thomas.

McNulty: Yes, I had him.

Romley: And there was a third one who was there for the first time in that year, which was the year 1929 I guess. But McCormick and Smith were my favorites. [Samuel M.] Fegtly was still dean at the time. He was good but he was a little crotchety sometimes. I'll tell you a little secret. The only course I ever flunked in my life was Dean Fegtly's course in evidence. It's the best thing he did flunking me. I took it again and learned something about evidence. It's the only course I ever flunked in my life. I'm digressing too much.

McNulty: Not a bit. Those are fine things and add to the treasure house of anecdotes that we've got. This business of going back to Georgia in the 1932 election.

Romley: Warm Springs, Georgia.

McNulty: You were really politically active to have done something like that.

Romley: Yes. Well, I was the president of the Young Democrats of Arizona. That was right after the 1932 election of Franklin D. Roosevelt as President.

McNulty: Very exciting, wasn't it?

Romley: Yes it was.

McNulty: Do you remember what Franklin Roosevelt said when you went back there to Warm Springs in 1932? Was there just one or two representatives from each state at this affair?

Romley: I think there were probably a half a dozen from Arizona.

McNulty: Oh, I see. And you say you're not interested in the politics.

Romley: I'm not interested in being in office, let's say. I do follow it some. I don't ignore it completely. I am interested, but I'm disappointed in the way politics operates.

McNulty: In what way? Define that a little more precisely.

Romley: Well, I don't like what is sometimes called mud-slinging and sometimes called negative campaigning. A lot of that went on during this campaign [Fall 1990] and that's no credit to anybody or to any state or to any party. But it did happen on both sides of the fence.

McNulty: Yes. The trouble is that there's a consensus that it works.

Romley: Yes, that's true. But I think this year it may have boomeranged on some.

McNulty: Yes. I'd hope that's true. If a grandchild or a great-grandchild came to you today and said, "I'm thinking of a career in the law," what would you tell them?

Romley: Well, I have ten grandsons. Not a one of them has ever expressed any interest in going into the law. I'm not sure that I would encourage him or discourage him. I think I'd tell him that's something on which he'd have to make up his own mind. I'd tell him how enjoyable it has been to me, and it has.

McNulty: Is society too litigious today?

Romley: Oh, yes. I think so. Unfortunately I think that's encouraged by the fact that many lawyers will take a case that they shouldn't take. It has no

merit, but they take it. And the client is encouraged to get into court when he shouldn't be in court.

McNulty: I want to wind up, but I want you to think of any funny incident in the law or with the courts that when you get around talking with the boys, a story you like to tell. Have you any of those?

Romley: Not really. Not really.

McNulty: Were you active in the Bar?

Romley: I started up the chairs in the Maricopa County Bar Association. I got up to secretary and it just was taking too much of my time. I was in court every week. I tried seven or eight cases a month for years. Those were the days when you could try a case in a couple of days. I didn't have time for it and I said, "I'm not going to go any further. Don't put me up." And they didn't. Later on, in the early 1980s, I was President of the Arizona Bar Foundation for three or four years, four years I guess it was. I haven't been as active as I probably should have been.

McNulty: But all things considered and for better or for worse, you'd do it over again?

Romley: There isn't anything I'd rather do.

McNulty: Thank you.

Romley: Thank you, Jim, it's been—I'm afraid I digressed too much.

McNulty: Oh, no. No. I encourage that because if a fellow will follow the train of his thought, then come up with some great funny stories.

End of interview.

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