ORAL HISTORY II

JUSTICE MILDRED L. LILLIE

CALIFORNIA COURT OF APPEAL (1958–2002)

Oral History of

JUSTICE MILDRED L. LILLIE

INTRODUCTION

EARL JOHNSON, JR.*

When Justice Lillie completed the oral history below, she still had another dozen years of life and service to the California legal community ahead of her. As someone who worked closely with her for that dozen years (as well as a half dozen years before that), the most useful thing I probably can do is cover some of the highlights of her life after the interview and also convey what it was like to be a member of the appellate division she headed.

But before I move on to the years after those Justice Lillie spoke of in her interview, I will begin with an event that happened years earlier that had a profound influence on her life, but which she had no way of knowing and hence wasn't mentioned in her oral history. It happened in 1984 when Division Seven was just in its second year of operation. The first presiding justice, Richard Schauer, had announced he was retiring from the judiciary. This meant Justice Leon Thompson and I, both of us selected by Governor Jerry Brown, were facing the prospect of working under a new P.J., one selected by Republican governor George Deukmejian. It didn't take us

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MILDRED L. LILLIE,
CALIFORNIA COURT OF APPEAL, 1958–2002
Courtesy California Court of Appeal, Second District

long to figure out the one we wanted and hoped had a chance the governor might pick was Mildred Lillie. But we also knew she was nearing 70 and also was a Democrat — both likely strikes against her. Nor had she put her name in for the position, so Governor Deukmejian might not even have thought of her as a possible candidate.

The opportunity to place Justice Lillie's name in contention, at least, arose when Justice Schauer was scheduled for an "exit interview" with the governor. The three of us met and quickly reached the consensus that we would like to see Justice Lillie as Division Seven's second presiding justice. So it was decided that Justice Schauer should make a strong case for that selection when he met with Governor Deukmejian. When he returned from the exit interview, Schauer could report that the governor seemed intrigued with the possibility. As Justice Lillie describes in her oral history, she was surprised when she received the call from the governor asking if she would be interested in becoming Division Seven's presiding justice, and she was especially surprised about the offer considering her age. Little did either the governor or Justice Lillie suspect she would occupy that position for some eighteen years, thus becoming one of the longest serving presiding justices in the history of the Second Appellate District.

Justice Lillie was already an institution when she arrived in Division Seven as its second presiding justice in 1984. So it was always Justice Lillie's court. But for most of her tenure it remained a three justice division and, with the untimely death of Justice Leon Thompson and his replacement by Justice Fred Woods in 1988, it became her division in another and very important sense. In the close cases, maybe five percent of those we considered, Justice Woods and I often disagreed. So it was Justice Lillie who occupied the middle ground and her decision became the decision of the court, no matter who wrote the opinion.

With rare exceptions, Justice Lillie presented a stern face to the outside world, especially when presiding in the courtroom. I have spoken to lawyers who expressed fear at the thought of appearing before her and witnessed a few who visibly trembled when arguing to her in our court. But behind the scenes and especially in her interactions with her fellow judges in the division, she was a warm, kind, caring colleague with a wonderful sense of humor. Every writ conference began with Justice Lillie telling her latest, favorite joke — often more than one.

Justice Lillie also was a great cook, especially of sinfully lavish desserts. She often baked them and brought them to court to celebrate a colleague's birthday. This was part of her commitment to making Division Seven a collegial court. After her early experiences in Division One, some of which she mentions in the oral history, where her colleagues wouldn't speak to each other or even travel in the same automobile, she was determined to make her new division a place of harmony and good feelings.

Justice Lillie's commitment to a collegial court also extended to her relationships with the division's staff, not just her fellow judges. Pablo Drobny, the writ attorney for the entire eighteen years of Justice Lillie's service heading Division Seven, was typical. When speaking about his daily interactions with her: "From the first day I entered Justice Lillie's chambers I realized I was meeting with a legend. And we carried on our discussions that way. But it wasn't long before there was a twinkle in her eye, and frequently a joke to be shared. And from then on I felt I was a friend and not just a writ attorney. Over the years that friendship just grew stronger and stronger."

Justice Lillie was not only an exemplary presiding justice, but during the years after completing her oral history she continued producing influential opinions. One that received national attention in the press and on several television shows was *Hecht v. Superior Court*. In that case, her opinion held that it was not against public policy to allow an unmarried woman to attempt in vitro fertilization using frozen sperm her deceased long-time live-in boy friend had expressly stored for this purpose before committing suicide, despite opposition from the man's ex-wife and her adult children.

For several years during the 1990s, Justice Lillie took on an additional, time-consuming challenge when Chief Justice Malcolm Lucas appointed her administrative presiding justice of the entire Second Appellate District. Although in her late seventies and early eighties at the time, she performed that demanding role with seeming effortlessness. She skillfully guided the court through one of California's periodic economic downturns, with predictable consequences for the court's budget, at the same time that caseloads swelled to unprecedented levels.

In the midst of her tenure as administrative presiding justice, Justice Lillie suffered a devastating personal loss, the death of her second husband, A.V. Falcone, in 1996. They had been a devoted, nearly inseparable couple for the thirty years of their marriage. Many people, including those

of us on Division Seven, the family of her stepson Judge Dewey Falcone, and several old friends tried to compensate for the loss, but Justice Lillie's life away from the court was never the same.

Mildred Lillie was an appellate judge for forty-four years and a judge in the California Court system for fifty-five years, both of them records for this state. In addition to records for longevity, she had a number of "firsts." Among them, she was the first woman to preside over major criminal trials in Los Angeles and the first woman to be appointed a justice of the Second Appellate District. But it was years after her oral history that Justice Lillie learned why she didn't achieve the ultimate "first" — to be the first woman on the United States Supreme Court. In his book, *The Rehnquist Choice*, published in 2001, John Dean revealed what his research uncovered about President Nixon's decision to nominate William Rehnquist rather than Mildred Lillie to the high court. In an example of the sexist attitudes that still permeated American society in 1971, Chief Justice Warren Burger objected to the appointment of a woman to his court, a view also expressed by several members of the American Bar Association committee that found her "unqualified," fearing the disruptive effect a woman justice would have on the collegiality and deliberations of the Supreme Court. It would require the revolution the legal profession experienced during the rest of the 1970s — when law school classes moved year by year from less than five percent to nearly fifty percent female, and women were appointed to lesser courts with far greater frequency — to set the stage for the 1981 appointment of Sandra Day O'Conner as the first woman on the nation's highest court.

Justice Lillie received many honors and awards for her service as an appellate judge during the last years of her life. Among them, she was named "Appellate Justice of the Year" by the Los Angeles Association of Consumer Attorneys and later received the same recognition from the Criminal Courts Bar Association. Demonstrating the appellate bar's reverence for Justice Lillie, the Appellate Courts Committee of the Los Angeles County Bar Association held a luncheon in her honor, with speaker after speaker praising her and her many contributions to California jurisprudence.

When the Southern California legal community finally lost this judicial giant on October 27, 2002, it mounted a funeral worthy of a head of state. An overflow audience including hundreds of judges and lawyers

attended the ceremony, Cardinal Roger Mahoney conducted the mass, and the California Highway Patrol closed down not only several streets but two freeways in order to clear the way for the funeral procession.

This was followed a year later by a unique and permanent recognition of Justice Lillie's unparalleled stature in the California judiciary. On November 6, 2003, at a reception attended by many of her fellow justices and trial judges, along with other leaders of the Southern California legal community, the Los Angeles County Law Library named its main facility in downtown Los Angeles the "Mildred Lillie Building." During the ceremony, former Attorney General John Van de Kamp narrated a video of Justice Lillie's life and Chief Justice Ronald George extolled her remarkable career and personal qualities. Altogether a fitting reminder for future generations of this legendary figure in California legal history.

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Oral History of

JUSTICE MILDRED L. LILLIE

CALIFORNIA COURT OF APPEAL

EDITOR'S NOTE

The oral history of Justice Lillie was recorded by attorney Mary Louise Blackstone of the former State Bar Committee on History of Law in California, in two sessions: November 20, 1989, and July 26, 1990, in which she taped and later transcribed the narrative presented by Justice Lillie.

The provenance of the oral history is provided by Carol Hicke of the Regional Oral History Office (ROHO) at The Bancroft Library, UC Berkeley, in a prefatory note dated December 5, 1997: "In 1991, the interviewer gave a copy of the transcript and tapes to The Bancroft Library. . . . The Bancroft Library sent the transcript and tapes to the Regional Oral History Office. I sent a copy to Justice Lillie and asked her to review it, which she did, making a few minor corrections."

The oral history is presented here in its entirety, incorporating Justice Lillie's corrections, and reedited for publication. It is printed by permission of the State Bar of California. The original transcript may be viewed at the Library or online at http://digitalassets.lib.berkeley.edu/roho/ucb/text/lillie_mildred.pdf (last visited Dec. 1, 2010).

— SELMA MOIDEL SMITH

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HUSBAND: A.V. FALCONE

My immediate family consists of my husband, A.V. Falcone, who is a lawyer. We were married in 1966. My husband has two adult children who have families of their own; I have no children.

My husband is a fine lawyer. He is by far the best lawyer I know. Prior to our marriage, he appeared before me on numerous occasions when I was on the municipal and superior courts, so I know his ability. I also know his knowledge, experience, intellect and dedication to the law and to justice. He is one of the few lawyers who, in his case is adequately prepared on the facts and on the law. There is no question you could ever ask him about his case to which he would not know the answer. He has a running knowledge of civil and criminal law, which is due primarily to his phenomenal memory, the fact that he reads constantly, his long experience and his active practice. He presently [November 20, 1989] is involved in filing a petition for certiorari in the United States Supreme Court. He is very tenacious and fights for the rights of his client. He is also a person who projects well and speaks well. He participated in a great many landmark cases. One case involved a boundary dispute, *Daluiso v. Boone*, and the California Supreme Court established that there was no self-help in California. He represented a man who had been approached by four men on horseback who had shotguns at their, sides. They claimed his fence went over the boundary line; and when the client refused to move it, they tore down the fence. My husband sued on his behalf and prevailed. Another case was *Los Angeles v. Frew* wherein, through the Supreme Court, he established that an owner of property had a right to testify to the value of that property. *Aetna v. West*, was a case wherein an employee had quit his job and the customers followed the employee; the plaintiff ran a janitorial service. My husband was able to establish for his client, the employee, that as long as it's fair, the employee can accept former customers of the employer — that is, if it's done fairly and the employee doesn't go out and solicit. He established the doctrine that it is unfair competition that is illegal, not fair competition. And there are a variety of others. I am very proud of him.

I like to talk to him about the law, but we have an agreement: he doesn't tell me anything about his cases and I don't tell him anything about mine. So unless it's a general rule of law or issue or a publicized matter, we do not

discuss the law. I remember one time he was in superior court and between the time the court took his case under submission and he returned for the court's decision, I had filed an opinion that was not in his favor. The attorney on the other side could hardly wait to advise the court, "Your Honor, his wife just wrote an opinion . . ." and when I got home, I heard about that. He didn't lose the case, however, because he was able, after a short recess, to distinguish his case.

He is a well-adjusted person who is very, very supportive of me. He is loyal, considerate and understanding and, am I lucky! He says I can do anything, and he has given me a tremendous feeling of self-confidence. He has convinced me I can do whatever I want to do, and has encouraged and helped me. For example, when we were married in 1966, I continued to sign my name "Mildred L. Lillie." It was before the days when a woman retained her maiden name. He said, "You know, I think that I should change your name to 'Mildred L. Lillie' and, further, legally. Because you have to run for retention, and the public knows you as Mildred Lillie, I think to avoid any question about whether it is your legal name on the ballot, we should change it." So, he filed a petition in superior court for change of name. And the judge who heard it was Jackie Weiss. Notices were published in the *Daily Journal*. There was no objection. It was interesting because just prior to that time, Ivy Baker Priest had remarried and was running for State Treasurer. She wanted to change her name to Ivy Baker Priest for the ballot. So she did the same thing, but I think there was some objection voiced to her change of name. But, I had no problem, and so my name was changed legally to Mildred L. Lillie.

BIRTH, CHILDHOOD, AND FAMILY, 1915-31

My maiden name was Kluckhohn; my father's family came from Germany. The family originally was named von Kluckhohn, but there was a schism in the family and one branch stayed where they were and my father's branch came to America and dropped the "von" and became known as Kluckhohn. The other branch of the family changed its name to von Kluck and produced the General von Kluck of World War I fame.

I have only been to Germany once, but I was there in such a hurry that I was unable to try to go back and see who my antecedents were. I hope

that before I die, I can return for the purpose of finding out from where my family came and what they did.

When my paternal grandmother and grandfather came to the United States, they settled in Iowa. They were people of means and they bought property there. They became farmers; they were people of the soil. When they retired, they came to Los Angeles where they lived until they both passed away. My father's name was Ottmar August Kluckhohn. "Ottmar" is a typical German name, so is "August" for that matter.

My mother's family came from Scotland and from Alsace-Lorraine. My grandmother was of the Borah family, and one ancestor married Martin Luther. Another eventually produced Senator William Borah of Idaho; he was my mother's second or third cousin. I have no memory of having met him, although I might have when I was a young child.

My mother was born Florence Elizabeth Martin in Wisconsin. The family settled in Wisconsin, and they too were farmers. My mother was well educated for her time, and she received her diploma from Normal School. She had three siblings, two brothers and a sister. One brother became a mathematics teacher at what we would know now as a high school. He decided later on that he wanted to work with his hands, so he came to California and settled. My aunt, who was then unmarried, came with him. They settled in the Coachella Valley where my aunt later married. Years later she lost her husband to an accident when he was trying to install an artesian well. My uncle and aunt eventually moved to the town of Oakdale, which is in Stanislaus County, and the San Joaquin Valley.

In the meantime, mother married my father in Riverside; she was married by Billy Sunday, and they honeymooned at the Palace Hotel in San Francisco. They finally settled in Iowa. My father was a farmer and owned several farms in Iowa, raising mostly corn and soy beans. I was born in Ida County in Ida Grove, Iowa, on January 25, 1915. I was the first baby born of caesarean section in the state of Iowa. Andy Warhol said, every person should have 15 minutes of fame in his life; I guess that was mine. I was told by my mother that they didn't expect either one of us to survive; we both did.

During that period, during World War I, there were a number of Germans in Wisconsin and in Iowa. There was a great deal of prejudice and violence against German families. They had a rough time for a couple of years before anti-German feelings eased off.

My mother separated from my father when I was three years old. She left Iowa and brought me to California when I was three, having filed suit for divorce from my father in Iowa. It was an interesting separation in that my father was crazy about my mother, and when he would come ostensibly to visit me, he really came to visit my mother. He never paid a great deal of attention to me, and he never supported me. He told my mother that if she would come home, he would support her and he would support me, but he wasn't going to support me and he wasn't going to support her as long as she refused to come home. And she said, "No thank you, I'll stay where I am." Well, eventually he didn't come to visit any longer and I lost track of him when I was in high school and when I started college. My mother was rendered practically penniless because she had no money of her own. She had been raised as the favorite child and been catered to as the youngest in the family. She was taught to sew and to do all of the things that young ladies did in those days. When she lived with my father, who was fairly well off, she did not have to work then either. But when we came to California, she was reduced to having to work in any way she could to earn a living for herself and for me, mostly in the fields picking fruit.

In the meantime, my uncle and my aunt had established themselves on a six-acre ranch just outside of the city limits of Oakdale, and we lived with them. This town, incidentally, was a fairly small one of about 5,000 people, and it was primarily an agricultural community. My uncle developed special varieties of peaches and nectarines for the luxury market in San Francisco. We did all of our own work — irrigating, cultivating, planting, thinning fruit, pruning trees, spraying, and picking fruit, sorting, packing and shipping. Of course, every member of the family worked; we all worked. When I wasn't going to school, I worked too. So I learned at an early age about hard work and doing common labor.

I was educated in the public schools in Oakdale. We were not people of means; in fact, we were poor, but we were respectably poor. We weren't poverty stricken because even throughout the Depression we were able to eat fairly well because we raised most of our own food. And we were properly clothed, but we had no luxuries. In those days, because our home was just outside the city limits, we had no electricity and I studied by kerosene lamp. We had no hot water in the house, and while we had running cold water, we had no bathroom facilities or plumbing. While I was

not in need, I had none of the luxuries that most of the kids that I went to school with had.

There were very few children in our particular area. Those that were there, were from a Japanese family named Adachi that lived on an adjoining farm, and an Italian family by the name of Bianchi that owned a dairy on the other side of the railroad tracks not far from our little fruit ranch. They were both large families and we kids played together. The Japanese family had six or seven children and were wonderful neighbors. I lost track of them; I think they settled in and around Modesto. I was raised with that family as I was raised with the Italian family.

At that time our economic status was not such that I was particularly popular at school because most of the kids were from affluent families and lived at the other end of town. I didn't have very much time to socialize or play anyway because when I was not in school, I was either working in the garden, picking or packing fruit or cooking the meals.

I cooked for my family. When I was about 11 years old my mother taught me how to cook, and she also taught me how to sew. While I've never been any great seamstress, I have been able to turn a fair seam. I did the cooking; I have a little talent in that direction and I enjoyed it. My summers were spent cooking for the family, sorting and packing of fruit. My pay for each day's work was an ice cream cone. Finally it dawned on me that I couldn't go to college on ice cream cones, so I got a job at the local cannery. I was about 12 years old and I misrepresented my age, but I'm sure they knew that I was not 16 because there were other kids who did the same thing. As long as we could cut fruit, that's all they really cared about. We worked on a conveyor belt and cut fruit, and were paid by the box. I saved my money and when the job at the cannery closed, it was seasonal of course, I worked at the cutting sheds. Those sheds were for drying fruit. Some of the fruits — peaches, apricots, pears — were dried naturally by the sun and others were cured by sulfur process. And I saved my money from that. Between all the work I did and school, I really had very little time to get into any trouble.

I was an excellent student, and when I graduated from high school I won a $100 scholarship, which would probably amount to $1000 to $1500 today. It was a lifesaver and it encouraged me more than ever to work that summer, and enroll in the fall at the University of California at Berkeley.

I was raised by my mother and by my uncle, her brother, and sometimes by my aunt who later on remarried and moved away.

My uncle was the nicest, kindest man I had ever known; I just adored him.

My mother had to work out in the fields and picked fruit for other orchards in order to support me; her sacrifice is something I have always been grateful for. She never complained; she was a stoic. She never complained about the work she had done, and I can't remember that she ever complained about anything — not her lot in life or anything else. When she was 90 and was ill, I was unaware of her condition because she would not tell me. Finally I realized that she was really not getting along as well as she should, had her examined and took her to the hospital. She taught me never to complain and was a strict disciplinarian. She was very liberal with the hair brush, and she operated under the theory that if you spared the rod, you spoiled the child.

She taught me a great many things that have served me well throughout my life. One of them is that there is no free lunch, that you have to work for everything you get: There was no compromise about that and she instilled in me a work ethic I still have — sometimes much to my great sorrow because I find myself to be almost a workaholic. My husband says I am never quiet for a moment — that if I have no work from my office to do at home, I am constantly working around the house. It's difficult for me to sit down and read anything frivolous, and I seldom watch television — mainly because I don't have the patience or time for either.

Above all, my mother instilled in me a strong sense of duty. If I have a job to do, an obligation, a duty, I can't rest until I do it. My husband calls me a child of duty. If I'm to be some place on time, I'm there, and if I give my word about something, that's it. It's a good thing to be that way, but it's a burden, too.

She also taught me that I had to follow the rules in everything I did, and obey the law. Once I took an orange from a tree without permission, and I had to return it. I was greatly humiliated, but my mother forced me to go back by myself, knock on the door, and tell the lady that I had taken the orange. My mother instructed me that if she said to me, "You may have the orange." that I was not to take it, which just about broke my heart. In any case, she gave me a great foundation for future living.

The hardest thing for me to do was to follow her admonition that if I couldn't say something nice about someone, not to say anything, but it has kept me in good stead all of my life. I am not a gossip and I do not listen to gossip. I used to think that if I didn't talk about anybody, no one would talk about me, but that isn't the way it works, unfortunately. I could have said a lot of things about a lot of people and done a lot of things but didn't do them because of my early training. I can still hear, "You'll win in the long run." And it's always been true.

I learned manners the hard way. When I was very young, my mother would take me visiting and instruct me at the outset that I was to sit in a chair and say nothing and not move, and that is exactly what I did. And I had no participation in anything; I only sat there! I was to be seen and not heard. She taught me good manners. I am reminded of Oscar Wilde who said a gentleman is one who never unintentionally insults a lady.

My mother was very loving and she sacrificed a great deal for me. She did not remarry. She did have suitors, and I remember when they would come to the house for dinner. I think that she did not remarry because of me. She never told me so, but when I would ask her if she liked someone, she would say, "Oh, no, Honey; I'm happy here." But I had a feeling that I was probably the one who prevented her from getting married. However, there was no conscious effort on my part to keep her for myself.

In those days, divorce was not common, and Oakdale was a small, fairly tight community. I was not the most popular student in the school mainly because of our economic situation; I had to work and I was the product of a divorced family. That was something that was not well accepted at that time. But I studied and I had some friends and I was happy. I never felt I was underprivileged or restricted or deprived. I always felt that I was very lucky that I had all the things I did have. I have wonderful memories of Christmas — of a tree with real candles, it's a wonder we didn't burn down the house, my mother rocking me to sleep when I was about five years old, on rainy days the smell of baking bread. She baked bread in an old wood stove. It had an oven you couldn't calibrate, so you wouldn't know if it was "on" or not. I learned to cook on that stove, and so I can cook on any stove that you've got — gas or electric, or wood or coal or barbecue — whatever it is, I can cook on it. I also have a memory of my mother teaching me to read when I was about five or five and a half. She insisted I be able to read before

I entered first grade. I know I got a lot of spankings because I was pretty bored with reading, but finally learned, and when I went to first grade, I knew how to read — which may or may not have been a great boon because eventually everybody caught up to me.

When I entered first grade I had trouble finding my way home. We lived about a mile away. The town had a general store from where I knew how to walk home. What I didn't understand at the time was that after going to the general store I always passed the school on my way home. My mother kept telling me that I was passing that school house on my way home, but I had to work this out my own way. It took several weeks.

During grammar school my activities were fairly limited, but during high school I was a member of glee club and various other organizations, and sang in the church choir. Mostly I spent my time at home and very little time playing with the kids on the school grounds. I had no real encouragement from my teachers relative to going to college. I rather suspect they thought that I couldn't afford to go. But I got good grades and I was determined to go to the university.

COLLEGE YEARS, BERKELEY, 1931-35

In 1931 I graduated from high school and enrolled at the University of California. I'd never been more than 30 miles from Oakdale, and had never spent any time overnight away from home. We went to Modesto now and then, and sometimes to Stockton, and once or twice to Yosemite Valley; but aside from that, my travels were very limited. I didn't even know how to board a streetcar, and I had great difficulty the first time I tried. I had no idea on which side of the street to stand or how to pay my fare.

I went to college alone by Greyhound Bus from Modesto and arrived at the station in Oakland rather early in the morning. I took the streetcar to the university and went directly to the employment office, at which time I got a job working for a private family in exchange for my room and board.

I was 16 years old. This family was an interesting one in that they had a very active social life and really needed someone to care for the children because they were seldom at home.

The lady of the house was very kind. I had previously learned how to comport myself, and my mother had sent me to dancing school. I had

learned some ballet but had never learned to ballroom dance. The girl across the street, who was also working her way through college, and the lady of the house where I was working taught me to dance. I didn't have an opportunity to try it out for a year or two thereafter, but I have a sense of rhythm and did well.

My cooking skills came in handy, and they improved during the time I was working for this family. In fact later, I successfully passed myself off as a cook. I spent about an hour and a half working in the morning before school, cooking breakfast and taking care of the children, and then I returned at about 5 o'clock in the afternoon, at which time I prepared the evening meal and put the children to bed if the parents were not home.

I learned firsthand about the consumption of alcohol. There never was any liquor in my own home and I was unaware of the drinking habits of other people. It rather surprised me and I was appalled at the effect it could have on a human being. I just did not know about drinking and did not know how to deal with someone who had imbibed too much.

In any case, I grew up very fast. I had a succession of jobs. I left the first one because the lady of the house invited her mother to spend a couple of weeks, and she decided to stay on — much to the dismay of her husband. Since there was only one extra bedroom, which I was occupying, I had to find another job.

The next position I held was a similar one, in the home of a certified public accountant and his wife and their two children. The daughter, who I would say was then about 12 years old, is now married to a superior court judge. This was during Prohibition, and the man of the family made some beer in a washtub, storing it under the kitchen stove. It got very warm and the whole tub of beer blew up, over the ceiling, the stove, the floor and all of the cupboards. We were never able to eradicate the smell, and to this day I have never tasted beer because I could never get close enough to it to try it. I am nauseated by even the thought of beer.

I took the regular courses an undergraduate would take at college the first year, but then my mother was determined I should be an artist. I did have some talent in that I had done some oil and watercolor painting at home. I had designed Christmas cards and things of that nature. I, too, thought I had artistic talent. But when I took some art classes at Cal, I discovered much to my surprise that if I had to rely upon my artistic talents

to earn a living, I would probably spend the rest of my life on welfare. I decided I would have to look for something which would make it possible for me to support myself and my mother, which I knew eventually I would do. When I decided to go to law school my mother was heartbroken; she thought the family was losing an artistic genius. Incidentally, I have done some respectable oils and watercolors as a hobby, some of which have won awards in various shows.

BOALT HALL SCHOOL OF LAW, 1935-38

At that time I had taken some pre-legal courses — one in international law and one in business law. I was very interested in the business law course and enjoyed the international law course. Edwin Dickinson, who was the dean of Boalt Hall at that time taught the international law course. He had come from Michigan law school where he had been a professor. His specialty was international law. He apparently saw some promise in my studies. I inquired about the possibilities of going to law school, and he encouraged me to do so. I told him that I had no money and that I would have to work during law school. He said there were very few students who worked while going through law school and it would be difficult, but that he thought I could do it and that he would give me a job, which he did. I corrected bluebooks for him for a couple of semesters.

In order to enter Boalt Hall, I took some summer session courses. During that summer I also went to intersession, and worked. I did a variety of jobs, from coaching undergraduates and correcting bluebooks to working in Sears Roebuck as what was then called a floor walker but was really a store detective. Later on I was asked by Sears & Roebuck to do some investigating because it had been sued by a woman who claimed she had been injured because a hot water bottle she had purchased there had burst and scalded her neck and back. I was sent out to investigate and to come back with whatever information I could find concerning her injuries. I was told that the best place to start was her neighbors. Well, I learned very quickly that snooping around was not my favorite thing, so I had to go back with a partial failure. I did some interviewing, with negative results, and finally I just went back to the office and told them that I would prefer to do some other kind of work. Well, someone else had taken my job as floor detective,

so I was put in the mail order department, which was kind of interesting and not difficult. I worked there summers and weekends.

I had no communication with my father up to that time, but decided to write and tell him what I was going to do. Well, he wrote to me — I think it was about the third letter I ever received from him — and told me what a ridiculous idea it was, that I was on my own, that it was a waste of money, that all I would do would be to get married and have a batch of kids, that I would never use my law, even if I got through law school, and that I was wasting my time and I ought to get smart and get a job. I decided that since I had been living all this time without any help from him, that I could continue to do so. So, I entered law school.

At that time there was no LSAT, and I was admitted on my grade average. One hundred thirty-seven of us were in the starting class. We were told the old saw about, look to your right and look to your left because next semester one of you won't be there. And, sure enough it was true because only sixty of us finally finished.

There were two other women in my class who started with me and finished with me. One was Nan Mountjoy Boie who was married to an engineer who worked in the Interior Department. She was very bright. Later she worked for Legal Aid, then practiced on her own. She was older than either I or Selma Michaels, who was the other woman student.

Selma also graduated with me; she later practiced law in the San Fernando Valley. She married, had several children, divorced and now she is married to a physicist at the University of California. She practiced in Berkeley also, and I don't know if she is doing any legal work now. I saw her at the 50th reunion of the Class of 1938 in 1988. That event brought out maybe 15 or 20 of our classmates, none of whom I could easily recognize, and I guess they couldn't recognize me either.

We had a number of professors who were famous in their field: Professor Langdon, who taught contracts; William Ferrier, who lectured in wills and property; Henry Ballantine, who taught torts and corporate law; Roger Traynor, who lectured in taxation and trusts; Max Radin who taught legal ethics; Professor McMurray who taught civil procedure; and Professor Alexander Kidd who taught criminal law.

Professor Kidd was called Captain Kidd. He ran a tight ship, and ran roughshod over everyone in the class. He was insulting to anyone

who wasn't paying attention or who gave an incorrect answer. He would become so irate he would throw books and papers at us. He would jump up and down and scream and yell and throw papers on the floor and really carry on. But we got used to him, almost fond of him. All the time I was in his class, he never called me "Miss," he always called me "Mister," and he always mispronounced my name. I told him a number of times the proper pronunciation but, no way. He did this intentionally because he really had no tolerance for women in his classes. He ignored us until he called on us. and if we did not answer correctly, he became insulting and threw tantrums.

I remember an incident that occurred during one of his classes that we students thought was very funny. Boalt Hall was kind of a salt-box-shaped, square building and there was a little incline of lawn up to the street. We were sitting in class one afternoon looking out the window, which we were forbidden to do. We were watching two dogs having a romantic interlude on the lawn. We were absolutely fascinated and were all watching. When Captain Kidd finally discovered he was getting no attention at all, he turned around, looked at this display of amorous activity and then looked at all of us. He closed the windows, pulled down the shades, left us in total darkness and walked out.

My classmates were an interesting lot. I had a conversation one time with Joe Grodin, former associate justice of the Supreme Court, about the university. He had gone to Cal and had a professor he raved about whose name was Jacobus tenBroek. TenBroek taught a speech class. It really consisted of cases and concepts that related to the First Amendment and the Equal Protection Clause, but he didn't teach in the law school; this was in the regular college curriculum. Jacobus tenBroek was blind and had been in my class at Boalt. He was a very, very bright man and most helpful to me. I sort of gravitated to him. He was a great big bear of a guy, was a fine gentleman and my good friend. I think he is now deceased.

My law school class dwindled little by little through the first, the second, and the third year, and finally, sixty of us graduated.

In 1940, Roger Traynor, by a historic accident, was appointed an associate justice of the California Supreme Court. Governor Olson, a Democrat, had named Professor Max Radin to the Supreme Court but, as it became obvious that because he was considered to be a liberal he would

not be confirmed by the Commission on Judicial Qualifications, he went to Governor Olson, offered to withdraw his name and asked him to appoint his friend and colleague Professor Traynor. Traynor was appointed. He served 24 years, then became the chief justice of California.

The first year of law school, I did not do too well. At the end of the term just before final examinations, my uncle passed away. He had been very ill. I went home. It just broke my heart because he had raised me. I had to make arrangements to bring my mother back with me, and I had no place to take her and no money. I was really in dire circumstances. I finally worked it out, but during that time I took my examination in criminal law from Captain Kidd and did poorly. He asked me what the trouble was, and I told him. He said he would let me take it over again. He did, the next semester when he gave the first semester examination, and I passed with flying colors. He was not heartless, and he really was a fine man, he just had a violent temper.

I finally got my mother located, and I got another job that paid a little bit more. I continued my law school, and I did fairly well thereafter. I had no real concern about how I was treated in law school because I was so busy trying to make a living and support my mother and pass my courses that I really had no time to worry about whether I was being treated properly as a woman. The fact of the matter was, that we three women were largely ignored. No one paid much attention to us or took us seriously. Our classmates and professors were affable to us as individuals but could not believe any one of us would ever really practice law. We all did, and under the most difficult of circumstances not the least of which was the Depression.

I received my degree in 1938, took the bar examination in 1938, and passed. The year before, I made my application to the State Bar for permission to take the bar examination — I don't know what it costs today, but I paid $1 as the fee and still have my receipt.

ALAMEDA CITY ATTORNEY'S OFFICE, 1938-39

Also in 1937, we were all looking for jobs. I went to Oakland to talk to the district attorney because I thought I would like to join that office. I went there without an appointment. He very kindly showed me into his office and talked with me. He asked me why I wanted to be a lawyer, and I said

it was a little late to be asking me that because I was almost through law school. He said, "Well, I don't like to discourage you but I would never appoint a woman." He said, "I've had a couple of women in this office, one of whom worked out fairly well, but the other one created nothing but problems, and I want no part of women in the law." So he said, "Good luck to you. I don't encourage you very much because I think that women probably don't belong in the law." I thanked him and went my way.

After I graduated I, for the first time, in looking for a job met with rank prejudice and bias. But first I had to concentrate on taking the bar, and I took a bar review course in San Francisco. I took it from a man who says we are the two oldest people in California who remember the "good old" days, and he is Bernie Witkin, that's who. He personally taught the class. He must have taught it well because I passed the bar. But during that period of time and thereafter, I was really desperate because we had no money at all. I had just enough to go back and forth across the Bay.

I went to the offices of law firms in San Francisco but made no appointments because there was no reason to — I would not have gotten in the front door. In fact, very seldom did I ever get past the receptionist's desk. Once in a while a member of the firm would come out into the office of the receptionist and tell me how useless it was for me to continue to look for a job. You have to remember, number one, the year was 1938, in the Depression, and no one was hiring. Number two, no one had any time for a 23-year-old woman who had no experience at all and who had not even yet passed the bar. And, number three, prejudice against women in this field was rife. One of the few times I ever entered the inner sanctum of one of the big law offices, I was lectured about the folly of ever having studied law, the futility of looking for a job in a law office because of my sex and no one would hire a woman, no one would trust a woman, a woman would probably get married and leave, and what use was it? It was a waste of time, it was a waste of money, and my education was for naught. So, I was pretty discouraged.

One day I found myself in the Federal Reserve Bank Building at the office of a firm by the name of Agnew and Boekel. I asked the receptionist if I might speak to some member of the firm; she called Mr. Boekel. He came out and invited me into his office. He too gave me a little lecture, but he was very kind about it. He said, "You look like a very intelligent young lady.

Give me your telephone number; perhaps I can help you." We couldn't afford a telephone, so I had to give him my landlord's number. I thought well, that's the end of that, and left.

Within a couple of days, my landlord came in and told me that a Mr. Boekel was on the phone. He said, "I have a friend who is the city attorney of Alameda, and he is looking for someone to do some research. I think you can get the job and I'll put in a good word for you."

So, I took the streetcar and went to Alameda and talked to Mr. George, the city attorney. He said after a long discussion, "All right, I'll hire you but, I can't put you on Civil Service because you haven't passed the bar, and I can't give you any legal work to do, so you will have to do research only and you will have to do your own typing." Well, I couldn't type, but I decided to make a stab at it with the hunt-and-peck system. I went to work at the magnificent sum of $175 a month. That was more money than I had ever seen at one time in my life. I was just ecstatic about the whole thing.

After I had worked for about a month, I came to the realization that if I remained there, I would forget all the legal knowledge I had ever accumulated, because all I did was to write and do research on public nuisances. That's all he had me do because he had to learn something about public nuisances; I did the research and he practiced law someplace else. He only came in occasionally to perform his duties as the city attorney. Well, I wasn't terribly happy, but I had to have a job, so I remained there.

I had to room in Alameda because it took too long for me to ride the streetcar back and forth from Berkeley. My mother was in Berkeley and I was in Alameda, but it worked out fairly well because I roomed with a little old lady who had a house full of antiques. It was like sleeping in a museum. That room was furnished with just one antique after another. But she was a dear little old lady, and I loved her company and her cooking, but believe me, it was a nightmare to go to bed in that house.

One day I was sitting in my office and I received a call from a reporter from Oakland. Now during this period, I was so busy trying to get a job I had forgotten completely about the bar examination. She told me she had learned I had passed the bar and wanted to take my picture and interview me. It gave me a tremendous shot of ego and encouraged me to look elsewhere for a job.

I had taken the bar examination in the Opera House in San Francisco. It was a three-day examination. None of us had any money, and we took our lunch and ate outside by the fountain across from the State Building. We fed the pigeons and fooled around outside until it was time to continue the examination. Well, we discovered that there was a strike going on at the Emporium, a general department store on Market Street. We walked down there and found people picketing. So we joined in, and they had the benefit of a bunch of aspiring lawyers. For three days we picketed during the noon hour. But that was the extent of my labor activities.

After I had passed the bar, Mr. George offered me a permanent position, but I was not satisfied because all I was doing was research, and he promised me nothing more. So, I communicated with the dean of the law school and told him I would like to make a change. Later he called me and asked if I would be interested in going to Fresno. I had never been in Fresno. I said, well, I would take a crack at it.

In the meantime, I was sworn in at admission ceremonies in Sacramento at the Supreme Court in the State Building. I don't know if you have ever been there, but it is a beautiful courtroom — wood paneled, and what you would conceive as the perfect courtroom. It has all the dignity, the grace, and the warmth that you think a courtroom should have. I was sworn in by Chief Justice William H. Waste.

I had gone to Sacramento with four of my classmates, and we drove, We didn't even think about taking our families, and no one was married. Now when there is an admission ceremony, the court is packed with children, and wives, and mothers, and friends, and aunts, and uncles, and cousins. We drove there, took the oath, and drove home — far different than it is now.

I am presiding over admission ceremonies in the Chandler Pavilion at the Music Center in a few weeks. We have often had the ceremonies in the Chandler Pavilion and it is always jammed with admittees, relatives and friends. It is very difficult for me to make the transition from the small, dignified courtroom of the Supreme Court in Sacramento, to this big affair in the Music Center or the Shrine Auditorium.

After I was admitted to practice, I returned to the City Attorney's Office, and I stayed there until I took the job in Fresno.

ATTORNEY: OFFICE OF JAMES ROYLE, FRESNO, 1939-42

I took the bus to Fresno for the interview. The attorney, James Royle, was interested in having someone do probate, divorce, small cases, draw wills, etc. Royle was a sole practitioner. He was very active in the dairymen's associations around Fresno County. There were a great many Portuguese dairymen there, and they had organized two or three dairymen' s associations around Los Banos, Coalinga, and other areas. Mr. Royle was the attorney for these associations which he had organized, and I frequently attended board meetings with him. At that time, he was in the appellate court on a variety of matters related to the testing of cows which the State Department of Agriculture ordered to be done. The associations were fighting this, and Mr. Royle needed someone to take care of the routine cases. I didn't realize at the time that he also needed a legal secretary. Well, he rattled the wrong cage; I told him I couldn't type. He said maybe I could learn; I, in my ignorance, said I would try. My secretarial efforts were a failure; my law practice was a success.

I returned to Berkeley. At that time I had an old car that my uncle had left me. It was a Whippet and it barely made it to Fresno. I put my mother in the car and what little luggage we had, and we started out for Fresno.

I meant to tell you that I was offered $100 a month, and whatever business I could bring in would be my own. In accepting the job, I figured I would probably do a lot better than staying in the City Attorney's Office in Alameda. My mother agreed; she was very, very supportive and had great faith and confidence in me that helped.

So, in the Whippet we are rolling into the first street from the highway into Fresno, and it turned out to be Divisidero Avenue. I spied an apartment house with a for rent sign on it. So, I stopped the car and went in and rented an apartment. It was a one-room apartment with a kitchen, bath and a large living room with a fold-down bed. I think the rent was $35 a month. We set up housekeeping, and I started my work with Mr. Royle.

Mr. Royle was very kind to me and very tolerant, although when he found out I really couldn't type, he was very discouraged, and I thought I might lose my job, but he hired a secretary instead.

In his office was a man by the name of Bert Green. He was a fine man who kept encouraging me and telling me that he knew sooner or later I

would be practicing on my own. Some of my experiences were devastating but I learned a lot about man's inhumanity to woman and many other things. The superior court was a learning ground for me. I took the bulk of Mr. Royle's routine cases and tried them, and I learned about prejudice, and I learned about bias, and I learned about what the judges and lawyers thought of women in the law. I was the only woman who was practicing in Fresno at that time. There had been another lady there, but I don't know what happened to her; she disappeared from the scene. Her difficulties with the State Bar didn't help matters any. The first case I had was a personal injury case, and Mr. Royle went in with me and he took the laboring oar because it was my first case. Unknown to me, Mr. Royle had denied that he had a certain document. When the attorney for the defendant in open court made a demand for the document, I instinctively reached for the file, which was a dead giveaway. I might add that there was a distinct coolness between Mr. Royle and me for some weeks thereafter. We lost the case, but I remained on the job.

I then got a workers' compensation case on my own. A man had been working in the sewer, and he had injured his right arm. At the hearing, they pulled the old saw on me. "How high can you raise your arm now?" And he did like so, raising it only a few inches. The counsel said, "How high could you raise your arm before the accident?" My client raised it a few inches, and suddenly you could see the wheels turning, and he put his arm down on the table and raised his left arm as high as he could. We got a nice award.

I tried a divorce case before Judge Murray, an explosive type of individual, who sat on the Superior Court of Madera County. He had red hair and a temper to match. The wife had come to me through a classmate in Madera. The woman complained that her husband had been very abusive, verbally and physically. I put on my case, which I thought was a very good case. Then the defendant testified that his wife, my client, had called him obscene names and had incited him to beat her up. He said he had struck her, but that she had called him the vilest, most obscene names, nagged him constantly and was verbally abusive to him. During recess, she insisted he was a liar, she had never used such language and wouldn't even think of using that kind of language. The judge held in my favor and ordered the residence sold and that the husband turn over to my client one-half

the proceeds within two weeks of the sale. Well, the house was sold, but after two weeks, no money. So, the wife came into my office in Fresno. She walked in the door and said, "You want to know what that no-good, dirty so-and-so . . . did?" I never heard such language in my life. So, I learned a thing or two about what to believe and what not to believe of clients.

I tried all the run-of-the-mill cases in the office. There were a number of judges in Fresno, two of whom became federal judges. I practiced before Ernest Klette, Campbell Beaumont, who later became a federal judge, H. Z. Austin and T. R. Thompson, who subsequently joined the court of appeal. All of these gentlemen treated me like a lady, but not like a lawyer. It was very difficult for me to be taken seriously no matter how hard I worked. The judges and lawyers treated me as though this was just an incident in my life and it was nothing that I was going to continue to pursue. They were very tolerant, but they largely ignored me. I just could not impress upon them that I was serious about what I was doing, that this was not just a fill-in, and that I wasn't just waiting around to get married. But I lived through it, and I learned an awful lot from it.

I had a case involving a promissory note in which I represented the defendant. It came before Judge Campbell Beaumont. An elderly gentleman by the name of Lindsey South represented the plaintiff. Lindsey South came from the South and he was an elegant gentleman with a sonorous voice. In putting on his case, he tried to put the promissory note in evidence. There were several novel twists to the case, and I objected. He tried a variety of ways, and I interposed an objection each time, which was sustained. Finally, Lindsey South walked up to the bench and said to Judge Campbell Beaumont, "Judge, if you want this promissory note in evidence, you will have to put it in yourself." I can just imagine what would have happened had I done the same thing. Finally, Judge Beaumont explained to him why the objections were good. We took a recess, and when we returned to court, Lindsey South was able to put his promissory note in evidence.

I went with Mr. Royle on his rounds to his dairymen's association meetings. There were three associations. Their board of directors, of which he was a member and for which he was counsel, would meet once a month. After several years, James Royle decided he wanted to be the postmaster of Fresno; he was appointed and quit practicing law. I fell heir to the dairymen's associations. I was pretty well versed in their problems, and their

appellate work had been disposed of, so it was no great burden. I became employed in a strictly advisory capacity as their lawyer; I was not a member of their board.

I would go one day to the Los Banos Association, and another day to the East-West Association up near Coalinga. I was always asked for lunch, or dinner, by the members of the association, and it was always in someone's home. All of the homes were dairy homes. If you're not used to the smell of manure and fresh hay, it takes some getting used to; these people were born and lived in this aura and didn't bother them at all.

They were the greatest cooks of all time. They kept on the back of wood stoves a big pot of stew and put everything — wine and everything else they could find — in that stew. It was very, very flavorful; I really appreciated their cooking.

Eventually, the associations hired a male lawyer to represent them. They were all very apologetic. It took them about a year and a half or two years to get up the courage to tell me they did not want to be represented by a woman.

In the meantime, Mr. Royle moved his office to the Federal Building as postmaster of Fresno, and I went into the office of Mansel Gallaher.

Mansel Gallaher had been chief assistant to the United States attorney here in Los Angeles and then retired to his practice in Fresno. He was an elderly gentleman and not in good health, and I handled some of his work. We were in the office of David Peckinpah.

David Peckinpah was part Indian and probably the best attorney in the valley. He had two sons whom I remember. One, named David, became a lawyer, the other, Sam Peckinpah, the director and producer who is now deceased.

I had a personal injury case I was going to try in Merced County. Dave Peckinpah told me I was foolish if I did not get some help, but I was young and ambitious, and I said, no, I could handle it myself. So I went to Merced County. My opponent was Ray Robinson. Ray Robinson was well known throughout California, an excellent lawyer, very active in the State Bar, and related to every person in Merced County. The jury was composed mostly of his relatives, and it was a combination of this, the fact I was a woman, and that I did not live in Merced County that spelled doom for my client. But the experience taught me a great lesson: first, that you don't believe

what jurors tell you about being objective, and second, that whenever you go to another county to try a case, you must have a local lawyer with you whether he does anything or not.

Mansel Gallaher became very ill and closed his office, and I had an opportunity to go into the office of Charles Hill. Charles Hill had been a fine lawyer; at one time he had represented Standard Oil Company. He was getting along in years and asked me to come into his office to handle a lot of the routine work.

In the building in which Hill's office was located was a medical doctor named George Sciaroni. Dr. Sciaroni became our family doctor. He was an excellent doctor, had a fine family and owned a beautiful home overlooking the river. He felt kindly toward me and would send me accident, divorce and small cases, for which I was very grateful.

One day Dr. Sciaroni asked if, as a favor to him, I would take a case without the payment of a fee. Without asking what kind of case it was, I answered yes. Well, this was around the beginning of the war. Dinuba was a small town between Bakersfield and Fresno, and before the war was strictly a farming community. A military installation was established on its outskirts and generated a great deal of activity. Cafes, dance halls, and bars sprung up, and with them, a house of prostitution. Among Dr. Sciaroni's patients were a couple of the girls, and the client he had for me to represent was their pimp, who had been charged with a violation of the Mann Act — bringing three women over from Las Vegas to Dinuba for immoral purposes. I was just crestfallen. I said, "Doctor, I can't represent someone like that." But then I thought of all the business he had sent me and said, "All right, I'll do it." He said, "If you want to be paid, I'll pay you out of my own pocket." I said, "That isn't it. I just don't want that kind of business." He said, "Well, would you do it for me?" And I said I would.

I went to see this man in jail. He was a little weasel-like, sleazy, tacky-looking character. He was being held by the United States marshal in the county jail as a federal prisoner. The deputy United States marshal later became a good friend of mine. He said, "What are you doing? A nice looking girl like you defending a fellow like that!" I said, "The story is too long to tell you, just let me talk to him." So, he brought the man into the interview room, and when he saw me, he gave up. He said, "You are going to represent me?" I said, "Yes, it's better than nothing! And for you, the price

is right." He said, "I don't have any money, but I'll tell you one thing. If you get me off, I'll give you all of my business. I'll make you the richest woman in California." I said, "Don't do me any favors. Further, I doubt I can get you off on this but I'll try." So, I had a long talk with him, and he lied to me, and I knew he was lying. He said he did not bring these three girls to Dinuba, they were crazy about him and followed him from Las Vegas.

Well, one of the women was being held as a material witness and I finally got permission to go talk to her. She said, "You know, I'm just crazy about him. He's taken care of me all these years and I was in love with him," and so forth. And I said, "Well, did he bring you across the border?" And she said, "Well, no, I followed him." I said, "As a matter of fact, he drove you across, didn't he?" "Well," she said. I repeated, "He drove you across, didn't he?" And she said, "Yes." It was a real loser.

It came time for trial and we picked a jury. Judge Beaumont was then on the federal bench and assigned to Fresno. The prosecutor was a man named Silverstein, who later became United States attorney here in Los Angeles. He put on his case, and I moved to dismiss the case on the ground no one had seen the defendant bring anyone across the state line and because the girl's testimony had not stood up on cross examination. Although Judge Beaumont was straight-laced and from Tennessee and scowled all through our argument, he reluctantly granted my motion.

I walked back to that sleazy little client and told him, "You're free to go." And he said, "What do you mean, I'm free to go?" I said, "You can leave." And he said, "Sure, and get shot at the front door." And I said, "You can go. As soon as you check out with the United States marshal, you are free to go back home." So, he looked at me and said, "Are you kidding me?" "No, I'm not." The jury in the meantime was discharged and we were sitting in the courtroom arguing about whether he was or was not free. Finally, the marshal came up to him and said, "Come on and I'll check you out." And he said, "I'm really free?" The marshal said, "Yes, this lady did a wonderful thing for you and you don't deserve it." And he said, "She didn't do anything for me, she's just a woman." And the marshal said, "Didn't you hear what she said to the judge?" The defendant then said to me, "You know, I'll give you all the business you can handle." And I said, "Forget it." He said, "I'll pay the fee." Well, he didn't pay the fee and I never saw him again, and I couldn't have cared less; it was all right with me.

ASSISTANT U.S. ATTORNEY, LOS ANGELES, 1942-46

About this time James Royle suggested that I make an application for a job in the United States Attorney's Office in Los Angeles. I had been very active in the Democratic Party and had been a member of the Young Democrats. Through this connection I had met James Carter, who was the director of Motor Vehicles, having been appointed by Governor Olson. Carter would later become the United States attorney and then a federal judge here. I also met Stanley Mosk, who at that time was a secretary to Governor Olson, later a judge, then attorney general of California, and then an associate justice of the Supreme Court. Royle suggested I talk to Senator Sheridan Downey. I did not know the senator but finally was able to make an appointment to see him. He said, "Well you have had pretty good experience and we'll see what we can do." I said, "Don't let the fact that I'm a woman make any difference." And he said, "It's going to." So, I countered, "It shouldn't because there is a war on and they're going to need women to help out whether in the legal area or somewhere else."

Very soon thereafter I received a call from William Fleet Palmer who was the interim United States attorney in Los Angeles in 1941 and 1942. He was 90 years old and a very dignified man who still had a razor sharp mind. Subsequently, he died in office.

Mr. Palmer interviewed me; he thought he could find a place for me. He did, but told me I had to be approved by the attorney general of the United States. I was approved, and I came to Los Angeles alone.

Tom Clark was the attorney general at that time. This was in May of 1942 and the war was on. When I presented myself the first day, I found a stack of files on my desk you wouldn't believe; they were piled up about as far as my chin and solid across the entire length of the desk. They were cases that had to be tried one after the other starting the next week.

Well, I had no place to stay in Los Angeles, so I registered at the Rosalyn Hotel. Little did I know that the Rosalyn Hotel at that time was a favored place for girls on the street to pick up the soldiers and sailors on skid row. Nevertheless, I was comfortable there, no one bothered, and I stayed for three months. Where I lived became a joke around the office. In those days, you could walk at night up and down Main Street without any trouble.

I had a room that faced Main Street. Night and day the jukeboxes blared in the bars below; the street was alive all night. All the big bands were playing at that time, and I learned all of the current dance music by listening to the jukeboxes — second hand. At night I spent my time in my hotel room working on the cases I had to try.

I had a pretty good reception in the U.S. Attorney's Office; there was one other woman attorney by the name of Betty Graydon, then about 60 years old.

I buckled down and went to work. I handled all kinds of cases. I was assigned to spend three months of the year in Fresno to handle the entire calendar in the federal court. I was assigned to the court of Leon Yankwich here in Los Angeles, and assigned to whatever judge sat in Fresno for the three months.

The cases on the Fresno calendar emanated out of that section of the Southern District of California. Now it is divided into districts and Fresno is in the Central District of California.

My sojourn in Fresno was great experience for me. Sometimes Judge Beaumont presided, sometimes Judge Pierson M. Hall, who at one time had been in city or county government, a superior court judge, U.S. attorney, then a federal judge. I learned a great deal from him. He had a wonderful speaking voice and I learned how to speak in public from him and how to project my voice. He was so definite in everything he said, so clear, and he projected power and authority when he spoke. I admired him greatly, and he helped me a great deal, but he also gave me a hard time. He told me he would make a good lawyer out of me if it was the last thing he ever did; in the process it was painful at times. Many years later we became good friends and one of his marriage ceremonies I performed in my home.

The first murder case I ever tried emanated from an Indian reservation over in Inyo County. One of the Indians had killed the Chief, and I prosecuted him. The Indian had been drinking, and an argument resulted in a stabbing on the reservation. It was not a capital case.

Indians came down to attend the trial. Some of them were for him and others were against him, and each group sat on different sides of the courtroom. There was great animosity among members of the tribe and the courtroom bristled with accusations.

It was an interesting case in that it involved a lot of perjury on both sides. As I was waiting for the defense to start, the defense counsel called a

woman, who was breastfeeding her baby, to testify. This was a very ample lady and was seated in the front row. As defense counsel called her as a witness, she held the baby out. Judge Hall said to me, "Miss Kluckhohn, do you think you could take this lady's place and hold the baby while she testifies?" I said, "Your Honor, I don't think I can do that baby justice, but, in any event, I am a federal prosecutor and I am trying this case. I am not a baby-sitter, and I decline." He said, "Very well." and she gave the baby to somebody else, rearranged herself, and got up on the stand and testified. The defendant was convicted and he was sentenced to the federal prison for life. That was my first murder case as a prosecutor and, I think, it was my last one. I had one that arose out of an automobile collision, but it was of another type.

In Los Angeles I tried 50 to 100 Selective Service cases. I heard every excuse in the world for not going into the Army, from shooting off a toe to hiding in the attic. I also got a number of cases involving conscientious objectors — all kinds of religious sects. Even though the defendants were given probation most of the time, they were difficult cases for me. Most were very sincere. Finally, I had had enough of Selective Service violations, and I was transferred to the civil division.

The federal judges then were Leon Yankwich, Campbell Beaumont, Pierson Hall, Ben Harrison, and William Mathes.

Judge Cosgrove was a very elderly gentleman; he had come from Fresno and had been on the federal court in Los Angeles for a number of years. I tried a personal injury case that arose out of a collision that occurred between a woman driving her car and my client, a mailman driving a mail truck. It was a two-bit case, really, and it did not amount to very much; it should have taken a couple of hours to try and it took a week. I was always inclined to over-prepare, to be repetitive and to argue at great length. Finally the judge called a halt to the whole thing and said, "I have now learned more about mail truck drivers than I ever cared to know. I'm going to bring this case to a close, and I'm going to hold in favor of the government." I thought I had won a big victory. However, he said to me, "I would like to see you in my chambers." There he lectured me: "I would like to tell you that you cannot impose upon the court the way you do, little girl." I was irate. I said, "Number one, I'm not a little girl, I'm 27 years old, and furthermore, I'm a lawyer and an assistant United States attorney, and I am entitled to the same respect as any other lawyer; number two, thank you

for the criticism — I will never impose upon this or any other court again." He glared at me and said, "Very well. I'll have no more to say." So that was the end of the conversation. Thereafter, when I appeared in his court, he was very respectful.

Finally, I was assigned to the appellate department of the U.S. Attorney's Office and I was sent to San Francisco to argue before the Ninth Circuit Court of Appeals on matters that had been tried in Los Angeles. The Ninth Circuit did not sit in Los Angeles very often, and I went up to San Francisco two or three times a month. I would fly up, and in those days it was a little different than flying up there now. Travel was difficult during the war, and it was very difficult getting any kind of hotel room, so generally I would fly up in the morning and return the same night.

At this point, let me tell you about another case I tried in Fresno. It involved the contamination of dried figs; I had never tried a federal Food and Drug case before. Around this time, a new lawyer had come into the U.S. Attorney's Office whose name was Cameron Lillie.

HUSBAND: CAMERON L. LILLIE, 1947-59

Cameron Lillie had a most interesting background. He was born and raised in New York. His father was born in Scotland and had been the attorney for the Canadian Pacific Railway Company; his mother, also of Scotch descent and born in Canada, was a successful corsetiere in New York. When Cameron Lillie was 18 years old, his mother and father divorced; he and his mother came to Los Angeles and he got a job with a construction company. This construction company was owned by a man by the name of Lewis. Four or five years later Mr. Lewis acquired the Palomar Ballroom, located on Vermont Avenue between about Third and Fourth, in some kind of a trade. The Palomar was a losing proposition and Mr. Lewis didn't know what to do with it. He looked around and said to Mr. Lillie, "How about managing the ballroom?" Mr. Lillie liked music but knew nothing about managing a ballroom. So he went into the entertainment business. He booked orchestras for dancing and began to build up the attendance.

He heard there was a band in New York playing for society balls, conducted by a man named Goodman, and he booked it. At that time, Benny Goodman was unknown, and the first time he played at the Palomar, he

bombed. The crowd did not like the society dance music and started to leave; those who stayed talked and laughed and did not listen to the music. It was a disaster. After a couple of hours, Benny Goodman said to Lillie, "We are losing customers; can I play the kind of music the band plays when it is alone?" And Lillie said, "Well, we're nowhere now, go ahead." Benny Goodman's group had been privately playing a lot of jazz. Goodman then told the band, "Come on, let's jazz it up." People began to surge upon the bandstand swinging and swaying, and Benny Goodman's Orchestra, as well as Big Band music, was born. The next evening, you couldn't get into the place, and from then on, the Palomar was a huge success. Goodman always said that Lillie gave him his big chance — had discovered him.

Lillie then learned of a young orchestra leader by name of Tommy Dorsey, and he brought him to the Palomar. He let Dorsey play the same kind of music as Goodman. Lillie also gave him his big chance.

At about the same time, there was a young violinist who wanted to be a doctor but also liked the entertainment business. He said to Lillie, "How about you and me going into the entertainment business booking these bands" Lillie said, "No, I want to go to law school. I'm not interested." So the violinist went his own way and founded MCA, and became an ophthalmologist — Jules Stein.

Although Lillie had made the Palomar a great success, he wanted to be a lawyer. He quit and got a job as a deputy clerk in the municipal court, and went to law school. He practiced law for a while, then went into the U.S. Attorney's Office.

Now, back to the fig contamination case. The U.S. attorney said to me, "Since you have never tried a Food and Drug case, I am going to send another lawyer with you." And Mr. Lillie and I tried the case. In picking a jury, he said to me, "The man in the corner will hang up your jury. Get rid of him." I said, "No, I like his looks." So, after a big argument, we kept him on, and he hung up the jury. Lillie never forgot it. He said, "I told you that he was a farmer, that while he didn't grow figs, he grew raisin grapes and he was not about to condemn any fruit, contaminated or not." He was right, of course.

Lillie asked me out to dinner. We went a couple of times, and we started to keep company.

On the Ninth Circuit Court of Appeals there were three judges, Albert Lee Stephens, the father of Justice Clarke Stephens of Division Five, and

Albert Lee Stephens, Jr., who is a federal judge, and brother of another Judge Stephens, a judge of the superior court, and Judges Curtis and Denman. Denman was a miserable man who abused the lawyers. The judges had the habit of getting up in unison and walking off the bench if a lawyer argued past his allotted time, leaving the lawyer talking to himself. I learned about this from sitting in the courtroom awaiting the call of my cases. Denman was very cross, had few friends, and about ten years later, committed suicide. Judge Stephens was a very kind man, but strict; Judge Denman was very rough on lawyers; Judge Wilbur was a stickler for the record. Wilbur enjoyed asking obtuse questions about the record that lawyers would never think of looking up or even remember if they had read the record.

I would go to San Francisco two or three times a month and would sit there in the courtroom awaiting my turn. I learned a good deal observing other lawyers and the court. They all but ignored me. I would get up and make my argument without incident. I would win some, lose some. I really never had any big problem with them.

One day I was late in getting out of court. There was a thick fog across the Bay and I could not fly out that night. We passengers waited around until about 11:00 p.m., and then the airline told us they would reserve rooms for us at the St. Francis Hotel. This was during the war, and by the time our bus got there, there were no rooms available. So, here I was alone, with some money but without luggage, and it was midnight. I walked down O'Farrell Street and saw a "Hotel" sign, so, I went in. In the lobby some men were seated talking, and a woman was at the desk. I asked for a room. She looked me up and down, and, finally, after a great deal of, what appeared to be indecision, she said all right, asked me to pay in advance, and told me the room was at the top of the stairs. I went up and tried to lock the door. No lock on the door. I was scared to death. So, I called Mr. Lillie. I said, "There's no lock on my hotel room door!" He said, "Well, where are you?" "I'm on O'Farrell Street." He said, "Describe the place for me." I did. He said, "Well, I hate to tell you this, but you are in a house of assignation! Can you move the dresser?" I said, "I don't know!" He said, "Move all the furniture you can up against the door." There was a telephone and a bed in the room, but that was about all. I moved what furniture there was against the door. Then I discovered I had an open window facing the alley which

I couldn't close, and that frightened me more. I called Mr. Lillie again and told him about the open window, but he only told me to go to bed. I stayed up practically all night and at the crack of dawn I got out of there, took a cab to the airport and went home.

Charles Carr was the U.S. attorney in 1945–1946, and my boss. Somewhere along the line, Charles Carr had gotten himself mixed up in some kind of political situation in which he felt he had to present a case to the Grand Jury, and that case was against Charles Chaplin. Chaplin was indicted for a violation of the Mann Act. In the office, we all thought it was very funny. Then Carr tried to get somebody to help him try the case, and no one would touch it. Finally, he came to me, and I was the last attorney he talked to. He wanted me to help him try it. I said, "Charlie, we're going to lose it because Chaplin doesn't have to bring her across the line to sleep with her. He's been living with her in New York. He's been living with her in Los Angeles. He didn't bring her here for any commercial purpose; he brought her here for himself."

He said, "Well, I can't help it. I'm stuck with the case and I have to try it." I said he would just have to get someone else, and when he asked if I liked my job, I knew I was doomed. I said, "All right, I'll help you try your case, but it's a loser." So, we tried it. Charles Chaplin was represented by Jerry Giesler.

Giesler had a wonderful reputation for being a fine lawyer. I suspect that a lot of that reputation was made by the media because he had a voice that didn't project, and he did not sound like or comport himself in the fashion I thought a lawyer should. He was very soft-spoken and very low-key. I was terribly disappointed.

The trial took place in the courtroom of Leon Yankwich. We picked a jury, and at recess I said to Carr, "You know, I think I'll stay in the office and take care of my work," and he said, "No, you don't, you're going to go back down with me." So, we tried the case — a very miserable one. When the case was submitted to the jury, it took them no longer than it took to open the door of the jury room, pick a foreman, take a vote, turn around, and walk back into the courtroom. So, he was acquitted. And as we sat, there before we were excused by the judge, all of the jurors jumped up from the jury box and ran over to Charlie Chaplin, and shook his hand, hugged him and kissed him, and told him how wonderful he was.

In those days, even though we worked in the U.S. Attorney's Office, we could have a little law practice. Mr. Lillie had a client involved in a partnership breakup and wanted me to be co-counsel in the case. I went to what then passed for the law and motion department of the superior court. An old-time superior court judge presided, and learned about "contributary nelegence" and "erevelant" evidence, and all kinds of things I never heard of before. I returned to my office and said to Mr. Lillie, "I never heard a more ignorant old man!" And he said, "Well, that's the judge before whom you are going to try the case." Well, by the time we got to Department One, that judge had retired and we had to be assigned out to another court.

We were waiting in Department One, and the parties decided to settle the case. We sat down in an empty courtroom and dickered around awhile for a reasonable settlement and finally arrived at one, but with the understanding that the defendant would pay attorney's fees — my attorney's fees. He negotiated awhile and came within $500. Finally, the other lawyer said to Mr. Lillie, "Well, we'll decide it on the toss of a coin," so they went into the men's restroom, and it was my fee that was being decided by the coin toss, but I couldn't go in to witness it. Mr. Lillie won the toss of the coin, and I got my $500 extra.

Charles Carr retired as U.S. attorney and went into private practice in the Subway Terminal Building. I was still in the U.S. Attorney's Office. In about six months he asked if I would come to his office and join him in starting a firm.

I was one of the few lawyers who could really get along with Charles Carr. He was a perfectionist. He was a fine lawyer and had no patience with incompetence. He later became a federal judge, and the big complaint lawyers had against him was that he took their cases away from them and tried them himself. After a lot of soul-searching, I decided to join him. We got on well and I enjoyed the association very much.

APPOINTED TO LOS ANGELES MUNICIPAL COURT, 1947

In the meantime, Mr. Lillie kept after me to make an application for a municipal court vacancy created when Judge May Lahey took disability retirement because of a heart condition. She had been born in Australia, went to

USC law school, and had been on the municipal court for many years. She was well loved and very popular. She was the first woman presiding judge of the Municipal Court of Los Angeles County. She was a good lawyer and a good judge. Mr. Lillie insisted I apply but somehow I never got around to it. Finally, one day when Mr. Lillie came to dinner, my mother said, "Will you kindly make an application for the Municipal Court and shut him up!" So I did, and sent it to the governor, and that was the end of that.

I had a friend by the name of Frank Belcher who was a fine lawyer, had been active in the State Bar and Los Angeles County Bar Association, and was well respected in the community. He was my mentor and active in Republican politics. In about six months my application bore fruit. I learned that an investigation was being made in Fresno, and the State Bar was in the process of making a report to the governor. It was a lengthy investigation and took considerable time.

One day I was serving as a member of an interview board for the Civil Service, Commission for Los Angeles County, interviewing for the job of deputy district attorney. I received a note from the girl in the office that the governor had called me and wanted to see me immediately. I told her to call him and tell him that I am engaged in interviews of applicants for a job in the District Attorney's Office and could not leave without imposing on the others. She did so, called me again and told me the governor was very put out about the situation. In the meantime, Mr. Belcher had called Mr. Lillie and said, "Will you get that woman over to the governor's office or she's going to miss her opportunity." Eventually, I made arrangements to go over to his office in the State Building at 3:00 in the afternoon. The governor said to me, "Did you finally decide that you would like to talk to me about an appointment? Well, I am thinking about appointing you to the Municipal Court." This was Governor Earl Warren. He had been raised in Bakersfield and we both had gone to Boalt Hall; so after we talked about the San Joaquin Valley and law school and my legal experience, he told me he would appoint me. So the man who, when he was district attorney of Alameda County, told me he wanted nothing to do with women lawyers, appointed me to the municipal court and later elevated me to the superior court.

I was appointed as judge of the municipal court in February, 1947 and married Cameron L. Lillie on March 17, 1947. We were married in the Flyers' Chapel at the Old Mission Inn in Riverside, and honeymooned in

Palm Springs. We returned in two weeks, I was sworn in and immediately went to work. I took Judge Lahey's place; there was then one other woman on the municipal court and she was Ida May Adams.

Ida May Adams came from Kentucky and had been elected to the municipal court in 1941 in a race against an incumbent judge. I am told she was backed by a supporter by the name of Dr. Schuller, a minister. She had tremendous backing and she was elected. Every morning before court, she would lead a salute to the flag and a little prayer. Ida May Adams retired after a long tenure as a municipal judge, and long after I was appointed to the superior court. She was not particularly friendly to me, I might add. While we had a nodding acquaintanceship, that's about all.

Two other women preceded me on the municipal court bench. Oda Faulconer was appointed by Governor Rolph in 1931; she died in 1943. Judge Orfa Jean Shontz had been appointed by Governor Merriam in 1939; she served until 1947.

Incidentally, after I joined the superior court, May Lahey recovered to the point where she could work. The chief justice then appointed her to serve pro tem on the municipal court, and she worked until she was able to retire. Having taken disability retirement, May forfeited her right to a pension. However, one of the women very active in the Women Lawyers' Association (known at that time as the Women Lawyers' Club), Ariel Hilton, single-handedly worked to put a special bill through the Legislature enabling May Lahey to retire on a regular pension. It was a bill only for May Lahey. Ariel felt it would be a great injustice to a fine judge if she could not receive regular retirement after all the work she had done. It was a fine thing for Ariel to do.

Incidentally, Ariel was a deputy in the Attorney General's Office here in Los Angeles for a long time. She was English, and her mother had been one of the original suffragettes in England, and for her marching, speaking out and picketing, she spent some time in a London jail. Like her mother, Ariel was very active in women's groups for equality for women.

My first day on the bench was in Van Nuys. My husband, who had worked as a clerk while going to law school, gave me some advice that has stood me in good stead for all my years on the trial bench — make your decision without explanation.

I arrived at the Municipal Court on a Monday morning. It was jam-packed with traffic violators and a scattering of other minor charges. There was no afternoon calendar, but at noon I had to drive to West Los Angeles to preside in the afternoon. I presented myself to the clerk, but I did not tell the clerk who I was. I asked, "Could you tell me where the judge's chambers are?" He said, "I have no time for that and the judge isn't here and you'll have to wait." Finally I said, "I'm the judge." He looked me all over and said, "You're kidding." After a short verbal hassle, he showed me the chambers, then told me pretty generally what I had to do; he was very thoughtful about everything. I think he didn't want me to embarrass him so he really extended himself. The afternoon calendar in West Los Angeles proved to be less burdensome. Most of it consisted of public drunkenness and drunk driving.

Judge Ray Brockman was the presiding judge at the time. Although I had already taken the oath, he suggested that I have a ceremony for a formal oath taking. So, in April, we had the ceremony, and it was a very lively affair. The federal judges came en masse. They made a complete shambles of the program because they all wanted to say something and they all did. We started at 2:00 p.m. and around 4:30 we finally finished. Everyone was exhausted except for the federal judges who were having the time of their lives. It was a rousing send off, it was a lot of fun, and I'll never forget it. They were very complimentary, and I've often thought how much happier I would have been during my federal service had I known they felt that way toward me.

At that time the municipal court held sessions every Sunday morning in Lincoln Heights Jail. Each judge was to take a turn, and there were about twenty of us. It should have come around about once in twenty Sundays, but I soon discovered that every three or four week I was being called upon — a situation I quickly straightened out. Thereafter, no judge skipped his turn.

The first morning I opened court in Lincoln Heights was not only a new experience but a learning one. It was during the early spring and it was very warm. On my way to chambers, the court personnel took me through where there were some cells, and the smell was overpowering. The Sunday calendar consisted mainly of drunk arrests and minor sex offenses. The arrest reports were far different from the FBI reports I had been reading in the federal court. I came across words I had never heard before. I took

the drunk cases first, the prostitution cases and then some of the other sex cases. As I read the arrest reports, I felt like I was in a foreign land. I took a short recess.

My husband had come with me that morning and was seated in the audience, and it was a good thing he was. He came back to chambers and I told him, "I need some advice. Would you kindly tell me what this means, and this means, and what this means?" So, after about ten minutes of sex instruction, I took the bench and did fairly well once I found out what it was all about.

Eventually, I was assigned to a civil division, which operated out of an old hotel known as the Municipal Courts' Building, located on Broadway, situated near the entrance of the Broadway tunnel. I also sat in the plea and arraignment court which was in the Hall of Justice. I moved around considerably, and I enjoyed the variety.

I discovered after being there six months that I was the only one working on Friday afternoons, which was very disconcerting. I continued to work on Friday afternoons because I just couldn't understand how anybody could cheat like that and not do the job he was paid to do. I created a minor ruckus about it, but eventually others began to come back, and finally there was a full complement on Friday afternoons. I was credited with having encouraged others to return to the court and stay there on Fridays.

I spent a week in the traffic division, then located in the basement of City Hall, which was an education. There were hundreds of people there. I finally finished about 1:00 p.m. and said to the clerk and bailiff, "I'll see you in the morning." And the clerk said, "The morning? You have a calendar at 1:30." So I had a quick sandwich and spent the rest of the day and part of the night there. I knew I would have to work faster than that. The traffic court was a real "fast-track" court; it took me some time to learn the ropes, but when I did, we finished the calendar in record time. In fact, later I was offered the court, an assignment I did well to forego.

I sat in criminal for a while, and then I was assigned pro tem in the superior court. They didn't have any courtrooms available, and one time I think I sat in what had been the anteroom of the men's restroom in the Hall of Records.

ELEVATION TO LOS ANGELES SUPERIOR COURT, 1949

During the war, little Quonset huts had been built on the site of what is now the Criminal Courts Building on the corner of Broadway and Temple. There were about half a dozen of these makeshift buildings. Finally, I was assigned to one of the Quonset huts and took the overflow of domestic relations cases from the domestic relations court, then known as Department 8. While I was sitting pro tem, Governor Warren called me. I had not made an application for elevation to the superior court, nor had I even thought about it, so it came as a complete surprise. He told me he was going to appoint me to the superior court. Well, very close to this time, Governor Warren was interested in the nomination for the Presidency. The fact that at the same time he also appointed a Jew, David Coleman, a Mason, Ellsworth Myers, and a Catholic, Francis Maroney, might give you an idea of why he appointed a woman. I was elevated to the Superior Court of Los Angeles County in October of 1949. I was delighted because I liked the work on the superior court — I liked the judges, the type of cases tried and the caliber of lawyers who appeared.

There was one other woman on the court, Georgia Bullock. She was the first woman judge of a court of record in California — a police court judge. She was responsible for creating the women's court which handled cases involving prostitutes and minor cases involving women. She felt that women should have a judge who understands them better, and that she could do a better job with them than male judges. And I think she might have been right. From what I have heard, the court was successful, but for some reason it didn't last very long. In 1926 she was appointed to the municipal court and in 1931 to the superior court by Governor Rolph. On the superior court she was instrumental in establishing the Conciliation Court, to be used in conjunction with the disposition of marital cases. Toward the end of her career she handled adoptions. I'm not certain, but I think that somewhere along the line she also handled civil cases. She retired in 1955 and died not long thereafter.

Georgia was a most difficult person to know. She never quite accepted me and considered me a poacher on her turf. She just did not know how to deal with me. When I had been on the superior court for a couple of months, she called me and asked me to lunch and asked me to meet her at

a certain place in town. I arrived at the appointed time and waited, but she didn't appear. That afternoon I received a bouquet of roses from her with a little card of apology that she had been otherwise engaged and just couldn't make the appointment.

Well, I should have learned my lesson, but a month later she called me again and invited me to lunch and said she would meet; the same thing occurred. It finally dawned on me that she really had no intention of ever meeting me. Later on we became friends to a certain extent, but she was always very aloof and very wary.

I continued to sit in overflow of Domestic Relations until February 1950. Charles Haas was a native Californian, had been on the bench a long time, and was a very good presiding judge and very fair. He was presiding judge when I joined the court, but in 1950, Clarence Kincaid took his place as presiding judge, and he assigned me to Long Beach. Now, I was not lowman on the totem pole at that time; there were three other judges, all males, below me. I asked him if it was because I was a woman that he was giving me the assignment, which was a long way from my home. He became very indignant, but he did not deny it, then countered with the comment that one of the judges had complained a year ago that he did not want to go to Long Beach, and he told him that he had better rethink whether or not he wanted to be a judge. That ended the matter as far as I was concerned. So I went to Long Beach for three months.

Edwin Jefferson had just finished his assignment in Long Beach; and he was the first black man to be appointed to the superior court west of the Mississippi. He told me it had been difficult for him but that finally he was accepted in Long Beach and enjoyed it. He warned me not to expect too much.

Every morning I rode the Red Car to Long Beach; it was the forerunner of the Blue Line. The first month was very quiet. I was friendly to the lawyers, but I minded my own business, did my work, got .there on time, and started court on time, and no one bothered me. In fact, no one paid any attention to me. In about a month, Joe Ball, the leading lawyer in Long Beach, asked me to be his guest at a luncheon of the Long Beach Bar Association. Having been taken under Joe's wing, it was not long before I was accepted by the lawyers of Long Beach. I will always remember Joe Ball with great affection for his thoughtfulness. My stay in Long Beach was

very enjoyable. I sat with judges Fred Miller of Long Beach, and George Francis who sat on pro tem assignment from Mono County and later was appointed to the Superior Court of Los Angeles County.

George Francis was a superior court judge in Mono County up Bishop way. The population was so small that at every election he knew within one or two votes whether he was going to make it. He figured that if ever there was a high profile case he would have to hear, he would be in real trouble, so he asked Governor Earl Warren to appoint him to the Superior Court of Los Angeles, and he did so. He was a delightful man. As a very young man, he rode "shotgun" for Wells Fargo. Judge Francis was then permanently assigned to Long Beach and served there for many years. Now retired, he still is active at 90.

I was happy in Long Beach, and the local bar wanted to ask the presiding judge to reassign me for another three months. However, I told them not to do me any favors because there was a serious problem in my household: I hadn't been married too long and we were trying to build a house; my husband, who was a lawyer, had to get up at all hours to get me to the station on Main Street to catch the Red Car. Having served my term in Long Beach, I was relieved of what finally became a very pleasant assignment.

PRESIDING JUDGE, DOMESTIC RELATIONS COURT — CELEBRITY CASES

I was then assigned as presiding judge of the Domestic Relations Court. At that time the new boy on the block was Louis Burke, who took my old courtroom for overflow domestic relations cases. It was the same Louis Burke who later was elevated to the court of appeal and then to the California Supreme Court. He was a devout Catholic and spent most of his time trying to reconcile irreconcilable couples, and we couldn't move our calendar. Finally, I had a talk with Lou about the "church and state thing" and asked that he try to speed up a little. But Judge Burke was a joy to work with. The Conciliation Court at that time had fallen into disuse. Georgia Bullock had moved on to something else, and while it was still in operation, it did not work effectively.

I followed Judge Thomas Cunningham on the Domestic Relations Court, then known as Department 8. It was located in one of the bungalows

or Quonset huts on the grounds on which is now located the Criminal Courts Building, next to the old Hall of Records. In any case, Tom Cunningham had started the practice of asking the parties at the call of the calendar if there was any chance of reconciliation; there were always couples who said they would like to talk about it. All reconciliation discussions took place in my chambers upon conclusion of the calendar. I think that because I was a woman, new interest in conciliation was generated. I was successful in some instances in which the reconciliation became permanent; in others, it was short lived. For a while, there was a bunch of girl babies and children running around with the first name of Mildred or Lillie, whose parents I had brought back together, unfortunately, for only a night or two. I finally realized that both parties had to be serious about reconciling or reconciliation could not succeed, and in the short time I could give them, I was not solving any problems for them. Judge Burke also recognized this and later, when he followed me as presiding judge of the Domestic Relations Court, he reestablished the Conciliation Court, calling it the Court of Reconciliation. It was a very successful operation.

There were many celebrities who passed through the Domestic Relations Court, and that is where I first met Kay Spreckles. She and her husband, Adolph Spreckles, were engaged in divorce proceedings; they appeared on various orders to show cause. Later she married Clark Gable, who was a long time friend of my husband.

The Domestic Relations Court was a court to which school teachers used to bring their young students in human relations classes for maybe an hour or two. Once, a teacher brought all her girl students, who were in the last year of high school, to watch court proceedings in the morning. After the calendar had been called and disposed of, I talked to them and learned that those girls were interested in home, marriage, how to keep a marriage together, what kinds of problems would arise, how early they should get married, and so on. All of their questions were directed to family unity.

In the afternoon, the same teacher brought the boys in the same class — 16, 17, 18 years old. They listened to the afternoon calendar, then I talked to them. It was interesting that they were not at all interested in family affairs. They weren't interested in anything that related to family unity or marriage or commitment of any kind. Their interest was reflected in questions such as — is a Tijuana marriage legal; if one got a girl in trouble,

would he have to marry her; if she had a baby. would he have to support her and/or the baby; how long did he have to support the baby; were divorces obtained in Las Vegas legal. The questions were all directed to their relations with young girls at that stage of their lives, and they were not particularly interested in anything that related to commitment.

Toward the end of 1950 I campaigned to move out of domestic relations. When approached with this request, the presiding judge, [W.] Turney Fox, who later became the presiding justice of the Court of Appeal, Division Two, said, "Well, you have a choice. You either stay there or you go to psycho court." That wasn't much of a choice, so I stayed in Domestic Relations Court for another year.

During that last period, I heard the custody case of Pia Lindstrom, the daughter of Ingrid Bergman and Dr. Lindstrom. It related to a visitation by Pia to her mother in Rome. It was a rather difficult situation because neither Ingrid Bergman nor Rosselini, to whom she was then married, were in the United States. However, they were represented by Greg Bautzer. Lindstrom was represented by the Pacht firm, which had been started years before by Isaac Pacht, one time a judge of the superior court.

It was a very lively lawsuit. Ingrid Bergman at that time was in the hospital giving birth to twin girls. The problem was that Rosselini, a hotheaded Italian, at one time had told the press that if Pia came to Italy, he and Ingrid would keep her. That, of course, was the problem because there was no way Dr. Lindstrom could retrieve her if they decided that they did not want to send her back to her father. Even posting a bond would not have been all that helpful. It was a difficult case with an 11 year old as a pawn. My holding allowed Ingrid visitation but only in the United States.

Pia was brought to my home for an interview at the request of both lawyers. Mrs. George Stevens, wife of the director, brought her. Pia was a nice, well-mannered child who grew into a very bright, good looking, capable young woman. I think she is doing television work at this time.

Judge Stanley Barnes became presiding judge, and he listened to my impassioned plea to transfer to another court. I wanted other experience, but my main concern was that women judges at that time were typecast as family court judges or juvenile court judges. When you read about any woman judge in the United States, she was always in the domestic relations court, always handling family matters or juveniles. I didn't want that

kind of reputation. I wanted to be known as an all-round good judge. I told Judge Barnes my problem, and, bless him, he assigned me to a criminal department. I was the first woman judge to be regularly assigned to a felony court in Los Angeles.

At that time there were only three criminal departments, and only two other judges. One was Judge Charles Fricke who wrote the books on criminal law, which at that time were the bible for criminal lawyers and judges. The other judge was Judge Thomas Ambrose. We three heard everything from petty theft with a prior to murder and it was very interesting.

Meanwhile, my husband had gone into private practice, entered a firm as a name partner and was doing very well. He took me to Europe for a vacation that spring. We stayed at the Savoy Hotel in London and were booked for about a week. After we had been there two or three days, the manager came to us and asked us if we would move to another floor. We were willing to, until he told us why — "Well, Charles Chaplin has arrived from the United States with his family and is taking the entire floor." And incidentally, that was the last time he lived in the United States, although he returned to visit a couple of times. I decided then and there I would not move for Charlie Chaplin, so we declined. The manager said, "All right, you can remain where you are." And we did. And we were sorry that we did because Charles and Oona had a batch of kids who ran up and down the hallway night and day, making all kinds of racket, and music blared at all hours. Unfortunately, we had placed ourselves in a position in which we were not about to ask the management to move us. We were delighted when our stay ended.

When my husband and I arrived in Rome, the hotel management sent me a message that Ingrid Bergman would like to speak to me. I declined because I could think of nothing that could be accomplished by any discussion. But every time we walked out of the hotel, my husband would say, "I wonder if Rosselini is looking around the corner."

I stayed in the criminal department for two years, and we heard every conceivable kind of felony case. I enjoyed it, but I really wanted to go into a civil department because I was interested in civil law. I asked the presiding judge to assign me to a civil court because I had seniority; he assigned me to a civil department in City Hall. This was before the courthouse had been built at First and Grand and Hill Streets.

I was happy there. I heard annulment cases every morning before my regular court session. I guess I have heard about every kind of marriage. After the annulment calendar, I heard jury and non-jury trials.

A case I think to be of special interest involved L. Ewing Scott. Mrs. Scott, an heiress, had been missing for some time, and under circumstances that would suggest foul play. L. Ewing Scott had filed an action seeking appointment as conservator of his wife's estate and thereby control her money. He claimed she was still with us and could have gone into seclusion or maybe just wandered off. He was represented by Charles Beardsley and Seth Hufstedler. Meanwhile, Mrs. Scott's brother entered the lawsuit, objected and asked to be appointed conservator. He made all kinds of claims that his sister was missing and Scott should explain why; that he should know what happened to her. Well, L. Ewing Scott never appeared in the courtroom. I learned later that he had been stashed away in an empty courtroom one floor above. The brother was never able to serve him with a subpoena, and, of course, he was not required to appear in his own law suit. He lost the case and appealed. In the meantime, murder charges were filed against him in connection with Mrs. Scott's disappearance, and he became a fugitive from justice. He fled to Canada and his appeal was dismissed because he was a fugitive. Mrs. Scott was never found. Eventually, he was tried for her murder and convicted.

Near the end of my service on the superior court I heard a condemnation case involving an old mansion located on Main Street directly across the street from City Hall. This was about 1957, and all of the other buildings had been demolished. The old mansion stood by itself and in the way of street improvements and the police building that was eventually built in that area. The mansion was owned by a number of people who were from old families in Los Angeles, among them, the Amestoys and the Dockweilers. There was not a satisfactory offer made; thus, the eminent domain proceeding went to trial. There was a request by both sides to view the premises, so we took the jury across the street to view the premises, and the two bailiffs served as showers. The reporter, the clerk, the lawyers and I went over as well. We stood on the sidewalk while the bailiffs opened the old building which had been boarded up to keep out transients who well might pose a fire danger. The building was in such a state of disrepair that the jurors could only go onto the first floor of the building; the rest of us

were outside. I was standing on the curb and a drunk came along and said to me, "Lady, would you please get out of the way so I can see what is going on?" And he pushed me into the gutter.

Well, during the showing we acquired a lot of bystanders who were curious to find out what was going on. In those days there were a lot of open bars in that area along Main Street. So we accumulated quite a crowd, and when the jurors finally finished viewing the premises, we walked back across the street. In the lobby of City Hall, the crowd looked pretty big and I decided I had better count the jurors; instead of 12, I had about 8 extras — all hangers on.

During this period of time, Georgia Bullock was handling adoptions three floors above me. She was becoming more and more infirm, and when she was unable to come in, the presiding judge would ask me to go to her courtroom and handle the adoptions along with my annulments and my regular calendar. It didn't take that long, and it wasn't difficult, but it was kind of a nuisance at first. Later on it became a real joy for me because I signed adoption orders for a number of people who later in my life approached me and told me I had "given" them a child so many years ago and how happy they had been. One of those was Willie Shoemaker. I don't know how long he had been married, but he and his wife adopted a little boy. Later, they were divorced, and he remarried. There is a waiter at the Jonathan Club who always regales me about his boy, who by now is maybe forty years old. He is very proud of that boy and he and his wife did a good job raising him. So, it was a very rewarding assignment.

During this time I handled a lot of jury trials. One day in the midst of a jury trial, Dolores Hope walked into the courtroom. I had known Dolores a long time and she had come to take me to lunch. I asked her what she had been doing, and she said she had been serving for some time on the jury and had been permanently excused that morning. After lunch, before the jury was called to the box, one of the lawyers, a plaintiff's lawyer, asked to speak to me. He asked me if I was a friend of Mrs. Hope, and when I said yes, he said she had convinced the jurors in a case of his to cut the amount of the verdict considerably, and he thought she was cheap and maybe her husband didn't make much money, although he seemed to have a pretty good job. I said, "Oh? What did she tell you he did?" "Well, she said he worked in TV. We assumed from what she said he was in the

repair business." I said, "Do you know who Mrs. Hope is? She's Mrs. Bob Hope." Well, he almost had a fit. I said, "I think maybe you didn't do your job very well."

I had known Loretta Young for some years. When she was cast as a woman judge in a TV show or movie, she came to my courtroom to audit the court session; she was there for two or three days. She wanted to learn how to act like a judge. I saw the movie later, and I saw all of my own mannerisms on the screen. I was delighted, but at the same time I saw how I must appear to other people. I corrected some of them.

One of the last cases I heard on the superior court was one involving an accident between a truck and a train — the caboose. This happened out in the Antelope Valley area. The man who was driving the truck had been killed; Melvin Belli represented his heirs. It was a very interesting case because Melvin Belli was a very colorful, flamboyant trial lawyer. He came into the case late and found himself on the losing side. All of his ingenuity and brilliant trial strategy could not save it. Later, he sent me one of his latest books and inscribed it, "From Melvin Belli, the caboose lawyer."

By 1957 the ranks of superior court judges had thinned out. Judges Allen Ashburn and Roy Herndon had been elevated to Division Two of the Second District Court of Appeal; Stanley Barnes had been appointed by President Eisenhower to the Court of Appeals for the Ninth Circuit; Thurmond Clark had been appointed a United States District Court judge; Thomas Cunningham retired and became general counsel for the University of California; W. Turney Fox had been elevated to presiding justice of Division Two of the Second District Court of Appeal; William B. McKesson was elected district attorney of Los Angeles; Stanley Mosk ran for attorney general of California and was elected, and later became an associate justice of the California Supreme Court; and Paul Valle was elevated to Division Three of the Second District Court of Appeal, as was Parker Wood. So, I had acquired some seniority at that time.

I wanted an assignment to the Law and Motion Department, and Presiding Judge Philip Richards said that the next year he would assign me. Of course, at that time it was not the same kind of law and motion department that they have now. We had no long pre-trial procedure or discovery in those days and the trial was more of an adversarial proceeding. I was looking forward to the move.

Around about that time, Presiding Judge Richards asked me if I would talk to Georgia Bullock and ask her if she planned to retire — really if she would retire. She was becoming more and more infirm. I declined, and told him I did not feel comfortable asking anybody to retire, and he would have to do the job himself. I was reminded of Stephen J. Field, the chief justice of California, who had been appointed by Abraham Lincoln to the U.S. Supreme Court. The low man was always given the message by the chief justice to deliver to whoever he thought should retire. So Field, the newest member, was given a letter to deliver to one of the justices who, according to the chief justice, had passed his prime; and Justice Field said, "A more dastardly piece of business I had never done." So I was reminded of that when the presiding judge asked me to talk to Georgia Bullock. Apparently, he did the job himself, for within a matter of a couple of months she did retire from the court.

APPOINTED TO COURT OF APPEAL, 1958

Again my husband insisted that I make an application to the governor, then Goodwin Knight — this time to sit on the court of appeal, and so I did. Speculation ran rife, but my name was never mentioned. It was unthinkable that he would appoint a woman. Then one day about 5:30 p.m. I received a call in my chambers from Governor Knight offering me the appointment. He asked me to keep it confidential for a couple of weeks and, believe me, it was the hardest two weeks I ever spent. However, he did give me permission to tell my husband.

The last case I heard on the superior court was the most difficult. It was brought by a lawyer who had separated from and was suing his law firm — *Anderson v. Grady*. It was difficult from the standpoint that the parties were tax lawyers. They were not familiar with the trial of a lawsuit and knew little of the rules of evidence. All of their work was done in their law offices. Each of the parties insisted that he tell his story the way he wanted to tell it — in narrative form. No witness wanted to be restricted by questions on direct or cross examination. I had a very difficult time keeping those lawyer witnesses in line. But they were represented by very fine counsel — Ed Youngblood represented Anderson; the law firm was represented by Frank Dougherty, an old-time lawyer. Both of them had great

difficulty controlling their clients, and I had great difficulty in getting the witnesses to follow the rules of evidence. It was a fascinating case and I thoroughly enjoyed it. The judgment was affirmed on appeal.

The new courthouse between Hill Street and Grand Avenue on First was just being completed, and everyone was moving. I moved to the State Building, then across from the Los Angeles Times on First Street between Spring and Broadway. It had been built in the Depression and it was a beautiful building. I was appointed to fill the unexpired term of William Doran in Division One of the Second District Court of Appeal. The only other woman ever appointed to the court of appeal in California was Annette Abbott Adams. She had distinguished herself as the United States attorney in Sacramento and had been appointed presiding justice of the Court of Appeal of the Third Appellate District by Governor Olson in 1943. She served only a few years and retired thereafter, I believe, for health reasons. So, I was the second woman court of appeal justice.

Mildred L. Lillie on her appointment to the California Court of Appeal, 1958.

Courtesy California Court of Appeal, Second District

By the way, most of the furniture the court of appeal had at the time I was appointed had been made by the prisoners during the period from about 1905 on about twenty years. It was beautiful oak furniture, some hand carved. But about ten or twelve years ago, the State Historical Commission appropriated most of it, and it reposes in the leadership offices in Sacramento.

The court of appeal was created by constitutional amendment in 1904 to alleviate the burgeoning caseload of the California Supreme Court. Before this, a judicial commission had been created to dispose of the overflow from the Supreme Court, but it did not prove to be too successful. In 1905 three appellate districts were created with three justices in each district:

District One in San Francisco, District Two in Los Angeles, and District Three in Sacramento. Thus, the intermediate court of appeal was born.

About 1918 the Legislature created two divisions within each district and so, the Second District's Division One (the original court) and Division Two were born. In 1941 Division Three was created. When I joined the Second District, there were just these three divisions.

In Division One, Thomas P. White was the presiding justice; he later became an associate justice of the California Supreme Court; with him in Division One sat Walter J. Fourt, associate justice, who had come from the superior court in Ventura. In Division Two, W. Turney Fox was the presiding justice, and Allen W. Ashburn and Roy Herndon were associate justices, all of whom had come from the superior court. In Division Three, the presiding justice was Clement L. Shinn and the associate justices were Parker Wood and Paul Vallee. There were twenty-one justices of the court of appeal in the State of California at that time.

In 1964, Division Four was created, and in 1968, Division Five. Then the Legislature increased the number of justices in each division to four, but retained three-judge panels.

In 1974, we moved from the State Building to 3580 Wilshire Boulevard because of earthquake damage to that beautiful old building. It was demolished shortly thereafter. Office buildings in downtown Los Angeles were not enthusiastic to have us because not long before, the Office of the Attorney General, which had to move with us, had been bombed. We expected our move to be only temporary, but Governor Jerry Brown did not see fit to start a new State Building. It was not until the later part of 1990 we were able to move into permanent quarters. We are now in the Ronald Reagan State Office Building located on Spring Street between Third and Fourth, in downtown Los Angeles.

In 1981, Divisions Six and Seven were created — each division had only three justices. Division Six is located in Ventura and was created to handle cases in Ventura, Santa Barbara and San Luis Obispo counties. Division Seven was created for Los Angeles. Today we have a total of eighty-eight court of appeal justices in California. The Second Appellate District has contributed its share of justices to the Supreme Court and two chief justices, Donald Wright and Malcolm M. Lucas. And one justice via the California Supreme Court became a deputy secretary of state,

national security advisor, then secretary of the interior in the Reagan Administration.

I took the oath of office on March 6, 1958, in the courtroom in the State Building; Governor Knight administered the oath of office. I invited twelve friends besides my husband and my mother, and about 750 people showed up. The courtroom was jammed and people were standing up in the back, lined up in the hallways and down the stairs. It was shocking to me as it was so unexpected.

My husband and I were good friends with Clark Gable and his wife. I had wanted them to come, and they had accepted. They arrived a bit late, so during the time people were being seated in the courtroom, which was packed, Clay Robbins, then the Division One clerk, went in and asked Judge Edwin Jefferson if he would move over so Clark Gable and his wife could sit with him. Having no idea that it was really Clark Gable, Ed said, "Oh, sure, sure! Let Clark Gable sit on the floor where those others are sitting." So Clay brought in Clark and Kay Gable, and Ed, nearly expired from embarrassment. Ed loved to tell that story and how he and Mattie, his wife, moved over so Clark and Kay could sit down.

After the swearing-in, I went to my chambers and found my desk completely covered with records of cases that had been left for me by my predecessor, Justice Doran. He had a lot of interests, but disposing of his assigned cases wasn't one of them, and no one — neither Justice Fourt nor Justice White — offered to help me. So I started out with twenty-five cases in addition to my regular two-week draw. It was very difficult for me because my husband had become very ill. I worked at home at night and finally was able to catch up with the other justices. It took me three or four months.

My first research attorney was Cuthbert Scott, a son of Joe Scott. I knew his brother, Al Scott, who was a judge of the superior court. Al called and asked if I would talk to his brother. I said I would; and I did and I hired him. He had a very fine background. He had practiced law with his father and worked in the Attorney General's Office. He worked with me for a number of years; then, to my sorrow, he reached retirement age and retired. He was an excellent lawyer and I was very fortunate to have him.

While Pat Brown, who later became governor, was attorney general, he appointed me to his Crime Commission. On the commission was Robert

Kingsley, then dean of USC Law School and who later became an associate justice in Division Four of the Second District Court of Appeal. At that time the prosecutors were having difficulty, without an informer, convicting defendants of sale of narcotics. As a result, a lot of cases had to be dismissed or reduced to mere possession. So Dean Kingsley and I, after some research and study, recommended to the commission that the Penal Code be amended to add the crime of possession for sale of narcotics; it subsequently was recommended to the Legislature and the Legislature adopted it.

My husband became very ill and entered the hospital in early April 1959, and passed away on April 13, 1959. His death was caused by a faulty heart valve that had accumulated scar tissue through rheumatic fever when he was a child. This occurred in the days before open-heart surgery. Had he been able to live a little longer, open-heart surgery, then only in the experimental state, could have saved his life. His heart damage was too extensive and he succumbed at age 52. I was simply devastated, and the only thing that saved me was hard work.

In the meantime, Governor Pat Brown appointed Thomas P. White, our presiding justice in Division One, to the California Supreme Court and appointed Justice Parker Wood of Division Three to replace him as presiding justice. Justice Fourt felt that because he was in Division One, he should have been appointed to the position. Animosity developed and for a couple of years, a great deal of tension existed. At that time we were on a circuit and also heard oral argument in Santa Barbara. On these occasions, the little feud was alive and well. It was very difficult to have a collegial atmosphere, but eventually the feud wore itself out and our division returned to normal. As intermediary and peacemaker I was constantly on the alert to remain impartial.

In 1968, the Legislature increased the number of justices in the division to four. Justice Robert Thompson, who had been a judge of the superior court, was appointed to Division One by Governor Pat Brown. Upon the retirement of Walter Fourt, Roy Gustafson, who had been the district attorney in Ventura County, was appointed to take his place. Gustafson stayed only two years. He had prosecuted Mrs. Duncan, who was accused and convicted of murdering her daughter-in-law, and was executed.

Governor Reagan appointed William P. Clark to the vacancy left by Gustafson. Judge Clark had been a superior court judge in San Luis

Obispo; before that, he had practiced law and then served on the staff of Governor Reagan. He came from an old-time family in Ventura County, and his grandfather was the first United States marshal in the Southern District of California. When I was in federal court as an assistant United States attorney in 1942, the marshal brought his little grandson in to meet me; that little boy was Justice Clark.

In 1973, Justice Clark was appointed to the California Supreme Court. He had opposition from Donald Wright who was then chief justice. I testified on behalf of Justice Clark. He and I had worked together in Division One and I had high regard for him. He was confirmed by a vote of two-to-one, and Chief Justice Wright cast the vote against him.

I went to San Francisco to testify on behalf of Justice Clark before the Judicial Qualifications Commission, and I think that was just about the beginning of the commission hearings as we know them today. When I was confirmed in 1958, it was done by telephone. So, this may have been one of the first times that the commission met in formal hearing to hear testimony. Later on, Justice Clark retired from the Supreme Court and became deputy secretary of state, then national security advisor to President Reagan, and later, secretary of the interior. He presently is practicing law.

Judge L. Thaxton Hanson took Justice Clark's place. Justice Hanson had been a superior court judge in Los Angeles County assigned to Van Nuys.

In 1977, Parker Wood, our presiding justice, became ill and passed away the next year. Governor Jerry Brown delayed filling the vacancy, so I was the acting presiding justice for a period of two years, during which we had a series of pro tem justices. In the meantime, Justice Robert Thompson, who is a fine lawyer, retired to teach law; he became a full-fledged law professor at USC, and only recently retired. We were left with only a skeleton bench of Justice Hanson and me. Eventually, Justice Bernard Jefferson, who was then an associate justice in Division Four, was appointed by Governor Jerry Brown to Division One as the presiding justice. He retired after a very short time when he reached retirement age. Another delay occurred and I was again the acting presiding justice. Then Governor Jerry Brown appointed as presiding justice, Judge Vaino Spencer, who had been a judge of the superior court in Los Angeles. But Jerry Brown continued to drag his feet, and the vacancy created by Robert Thompson's retirement

remained unfilled. Finally, in 1981 he appointed Vincent Dalcimer, a judge of the superior court in Los Angeles.

Jerry Brown appointed three women to the Second Appellate District: Arleigh Woods, the presiding justice of Division Four; Joan Dempsey Klein, the presiding justice of Division Three; and Vaino Spencer, the presiding justice of Division One. Three other women were appointed to the court by Governor George Deukrnejian — Joyce Kennard, who had been a judge of the superior court, as an associate justice in Division Five, and later an associate justice of the California Supreme Court; Miriam Vogel, a superior Court judge, as an associate justice in Division One; and Margaret Grignon, a superior court judge, as an associate justice in Division Five.

During this period, I was very active in the California Judges Association and the California Center for Judicial Education and Research. I chaired committees, worked in seminars, and gave a lecture on contempt at the Judges College in Berkeley. I was the chairman of the Appellate Courts Seminar in San Diego and have actively participated yearly in its program. In 1975, I was elected a member of the board of directors of the Los Angeles Chamber of Commerce, which always had an all-male membership. Caroline Ahmanson (Mrs. Howard Ahmanson) and I were the first women ever to be voted regular members of the board. I held this directorship until 1982. It was a very confining commitment and I attended a meeting every Thursday noon; but it was one of the most interesting experiences I have ever had and I enjoyed it immensely. It really was one of the highlights of my career. Thereafter, I served as presiding co-chairman of the National Conference of Christians and Jews, Southern California, a most rewarding experience.

I held the office of associate justice of Division One of the Court of Appeal until 1982. I had just run successfully for retention for a twelve-year term, and I was happy in my work there. In 1981, the Legislature had created Division Six and Division Seven. Jerry Brown appointed Richard Schauer, the presiding judge of the Los Angeles County Superior Court, as the presiding justice of Division Seven. As associate justices, he appointed Leon Thompson, of the Los Angeles County Superior Court, and Earl Johnson, a professor of law at USC. In early 1982, Justice Schauer retired to go with Sidley and Austin, a large and prestigious law firm, which has

its main office in Chicago. I was hardly aware of the vacancy and certainly had no particular interest in it.

APPOINTED PRESIDING JUSTICE, COURT OF APPEAL, 1984

One day, out of the blue, Governor Deukmejian called me and offered me the post of presiding justice of Division Seven. Inasmuch as I had not applied for the position, I asked him if he knew I was 69 years old, soon to be 70, and he said, yes, he did. And I replied that, in light of the fact the offer had come as a surprise, I wanted to discuss it with my husband before I gave him an answer. He said to think it over and to call him the next day. I told my husband that if I took the post, I felt obligated to remain past my retirement date, because my birthday was coming up in January and already it was June or July; he said he saw no reason I could not continue on as long as I felt well. To make sure I was in good health, I underwent a stringent physical examination and found I was in excellent health. Even though I had just been re-elected to a twelve-year term, I told Governor Deukmejian it was an offer I couldn't refuse. My name was sent to the State Bar for rating by the commission. At that time, the commission had been under fire because of various things that had occurred, so, I was about the first one to go through it after it had been overhauled. I was rated "exceptionally well qualified." I told the attorney general, a member of the Judicial Qualifications Commission, that the woman who headed the team that interviewed me, who was a deputy attorney general, had done an excellent job. I said I was very proud of her as a woman and that he should be very proud of her for the job she had been doing for the State Bar.

About two years after my late husband passed away, I received a call from A.V. Falcone, who asked me if I would testify on his behalf at a hearing in which he was to prove up for fees in a probate matter. On the superior court I had heard several cases in which he had represented civil litigants and thought he was one of the very best lawyers in the city, and I readily agreed. "Well," he said, "to save you time, I will take your deposition." He arranged for the deposition in his office, and I went there at 4:00 p.m. After the deposition, which was brief, he asked me to dinner. I said, "Mr. Falcone, I thought you were married." And he replied, "I've been a

widower for five years." I said, "Well, okay, but not this evening," and we set another time. When he called for me, who should be with him but his son, a grown man who practiced law in his office, and who is now a judge of the superior court. His son was very embarrassed in his role as chaperon, but it didn't seem to embarrass Mr. Falcone any. At any rate, that was the beginning of a romance, and in 1966 we were married. I would say that he is the most supportive husband that any professional woman could possibly have.

On Friday, July 27, 1984, the Commission on Judicial Qualifications met in the courtroom. Chief Justice Rose Elizabeth Bird, Attorney General John Van de Kamp, and Presiding Justice Lester Roth were then its members. I had a wonderful time, probably because only my friends were present. I took the oath the same day from Chief Justice Bird, and went to work the next Monday. Well, I've never been so busy in my life. As you probably know, the presiding justice has very little authority; he or she is only the titular head of a division. The work of the presiding justice is primarily administrative work — signing orders and pushing papers around — a continuous shuffling — that's pretty time-consuming. It takes only an hour each day, but it cuts into our regular judicial work. The only other thing the presiding justice does is preside over oral argument in open court.

I found two very collegial persons in Division Seven, and I was very happy to come into the division. Of course, one of the most sensitive issues in the internal administration of any division is collegiality — the ability to work together in peace and harmony with cooperation and with open communication. We work with two or three separate individuals. If it is a three-justice division, of course we work with two others; if it is a four-justice division, we work with three others. We are independent and intolerant of any infringement on our independence, have egos as big as all outdoors, and we are all of different backgrounds, experience and education. We all have different religions and philosophical views. As a result, it takes pretty special people to work in close contact with each other and get along. And whether we work successfully together depends primarily on the willingness of each justice to cooperate, to communicate and listen, and to respect the views of others. Whether we can all successfully work

together also depends, in part, on the personality and the skill and the tact of the presiding justice.

In 1987, I was appointed a member of the Judicial Council by Chief Justice Malcolm M. Lucas for a period of two years. I had served a previous two-year term, having been appointed by Chief Justice Gibson in 1960. In 1988, I was appointed the administrative presiding justice of the Second District Court of Appeal. With a break of about a year, I am again serving as administrative presiding justice. It is very time-consuming work, especially since our move to the Ronald Reagan State Building.

In 1988 we suffered a tragedy in Division Seven. Justice Leon Thompson passed away in September of that year after only a very brief illness. It completely devastated our division because he had not been ill, and he had taken only a little time off for some physical examinations.

Subsequently, we were very busy, Justice Johnson and I, doing the work of three people. Fortunately, we had the assistance of Justice Thompson's two research attorneys, until they went to other positions. Finally, we were able to catch up. By the time Justice Fred Woods joined Division Seven, we were current in our work.

Justice Norvel Fred Woods, who hails from Long Beach, was a superior court judge, but he had served as a justice pro tern in Division One. We were pleased to have him. He was fresh from the appellate department of the superior court, and also had served in law and motion. He is very knowledgeable about law and motion, and court and jury trials, in both civil and criminal cases, and we are lucky to have him.

At the present time, I am engaged in work for CJER and have served on a variety of committees for the California Judges Association, as a member or as a chairman. Whenever we have an appellate justices seminar, I always seem to find myself involved in one way or another, probably because I've been on the court so long. I am the senior justice in the State of California, probably the senior judge. I have been on the court of appeal thirty-three years and on the bench forty-four years — since 1947. For some years I have pretty regularly sat pro tem on the California Supreme Court when a justice is disqualified. On the Court of Appeal, I have authored close to 4,000 opinions, starting with 158 Cal.App.2d through 268 Cal.App.2d and 1 Cal.App.3d through 220 Cal.App.3d, or about 330 volumes of reports. Now we are up to 49 Cal.App.4th.

THOUGHTS ON WOMEN LAWYERS

I have always been interested in the advancement of women in the legal profession. On an individual basis, I have encouraged women lawyers to advance in the profession and those who are about to enter law school or who are already studying law. My contact with them, of course, is limited, but I have had a number of young women serve with me as externs, and I have done everything I could to encourage them to branch out and use their legal education to their fullest advantage. I am proud that some of these young women are now successful practitioners and some are serving in judicial capacities.

The first woman to be admitted to practice in the United States was Margaret Brent, who was admitted in 1648, with certain restrictions. Her practice, by edict, was limited to the administration of the estates of the Lord Proprietor of Maryland, who was Cecelius Calvert, the Second Lord of Baltimore. After that there is, in history, a big stretch of time during which there appears to be no record of any woman having been admitted to practice.

Arabella Mansfield of Iowa was the first woman admitted as a professional law student. St. Louis Law School was the first law school to admit a woman in 1868.

Also, in 1868, Myra Bradwell in Chicago applied for a license to practice law; her application was denied by the Illinois Supreme Court by reason of her "disability" as a married woman. The United States Supreme Court upheld the decision in 1872. Meanwhile, Bradwell became occupied with editing the *Chicago Legal News*, which she founded, and she did not renew her application. In 1890, the Illinois Supreme Court *sua sponte* granted her application.

In 1870 a member of the Board of Trustees of Columbia University Law School, in denying a woman's application to study law, said, "No woman shall degrade herself by practicing the law in New York, especially If I can save her."

In 1870, an unmarried lady, Alta M. Hulett, made a similar application in Chicago, and this time the Supreme Court did not even bother about the excuse of coverture. She took her cause to the legislature, formulated an enabling act and was admitted to the practice of law.

In 1870, Harvard Law School refused to admit women because it believed it was not practical to admit men and women to the law library at the same time; therefore it would not be fair to admit women to the law school without giving them library privileges.

In 1876, Belva Ann Lockwood of Washington, D. C., made an application to practice before the United States Supreme Court, and it was denied. She drafted a bill and lobbied for three years; finally Congress passed an enabling act to admit her in 1879. She was the first woman to be admitted by the United States Supreme Court.

In the 1870s there were three young women born in different parts of the United States, who lived in different places in California, were not known to each other and who wanted to study law. But no law school would admit them. Laura DeForce Gordon had been born in Pennsylvania and was married to an officer of the Union Army; they moved to California. She was a journalist by profession, and in 1873 she founded the *Daily Leader*, a newspaper in Stockton. Mary Josephine Young had been born in Santa Clara and was married to a lawyer and lived in Sacramento. Clara Shortridge, who had been born in Indiana, was the sister of Senator Samuel Shortridge and a descendent of Daniel Boone. She married a man by the name of Foltz, and they moved to California. About this time, all three of the women were trying to enter law school, and eventually met and joined forces to compel Hastings Law School to admit them. They filed a petition for writ of mandate in the Supreme Court; the Court granted the petition and issued the writ; and they enrolled.

From this point on, historically there is a kind of gray area as to what happened to these ladies. As they advanced in age, through faded recollection and the claims of relatives, friends, and enthusiastic supporters, they challenged each other's claims as to who was first admitted to practice in California. However, it is fairly established that in 1878, Clara Shortridge Foltz was the first woman admitted to practice in California, but her admission was by the county court in San Francisco. In 1879, one year later, Mary Josephine Young and Laura DeForce Gordon were the first women admitted to practice by the California Supreme Court. Later that year, Clara took her examination and became the third woman to be admitted by the Supreme Court.

Mary Josephine Young practiced in her husband's law office in Sacramento and died in 1946. When she was admitted, the Sacramento Bee, as if in defense of the California Supreme Court, said of her admission, "She pursued her studies with the full consent and concurrence of her husband."

Laura DeForce Gordon was active in the criminal law field and was the second woman to be admitted to practice before the United States Supreme Court, in 1885.

Clara Shortridge Foltz became known as the Portia of the Pacific. She was very militant and aggressive and traveled up and down the state on behalf of women's suffrage, served two terms as deputy district attorney and then practiced law in Los Angeles. She drafted various pieces of legislation and article 18, section 20, California Constitution, prohibiting disqualification on account of sex of one seeking to enter into and pursue any lawful business or profession. She twice ran for governor of California. She died in 1934. I never met Clara but always considered her as my kind of woman.

Very slowly, women began taking their place in the legal profession in California.

There was no great impetus for the advancement of women lawyers, especially in public offices. I have already mentioned that in 1942 I became an assistant United States attorney; probably the onset of the war and scarcity of men in the office was the reason public offices were more willing to look favorably upon women applicants. It has been a long struggle, but while now women are studying law in substantial numbers in our law schools — in excess of fifty percent of the enrollment — there is still widespread discrimination against women in the law — by law firms, public offices, the courts and the public. And there is no question about it. The Women Lawyers' Association [of Los Angeles] over the last twenty-five years has taken a more active role in the advancement of women, and has done extensive work and an outstanding job in helping women advance in the legal profession.

The Women Lawyers' Club was a pioneer organization of women lawyers in Los Angeles and a forerunner of the Women Lawyers' Association as it exists now. It was organized in September of 1918 in the office of Mabel Walker Willebrandt, in Oakland [sic: Los Angeles], California. The first officers were chosen on January 19, 1919; it was organized "for the purpose of promoting and advancing the interests of the[ir] profession." The first

president was Caroline Kellogg, and the charter members were Elizabeth Kenney, prominent in the Political Equality League and a tireless worker for women's rights, Georgia Bullock, the first woman judge of a court of record in California, Oda Faulconer, an early judge of the Los Angeles Municipal Court, Mae Carvell, a private practitioner in Los Angeles who specialized in probate law, Litta Belle Campbell, who was the wife of Kemper Campbell, a well known lawyer, and Ariel Hilton, whose mother had been a suffragette in London. Ariel was deputy attorney general when I first joined the court of appeal in 1958. Ariel was very active in the Women Lawyers' Club. Clara Shortridge Foltz was also a member, as was Edna Covert Plummer.

Edna Covert Plummer had a remarkable background; for me she was a role model. She had been elected the first woman district attorney in the United States, in a county in Nevada. Edna met her husband in Nevada; he was a stagecoach driver. Eventually she and her husband came to California and she established an office in Los Angeles. She was a fine lawyer and was well regarded in the profession; she was the first woman member of the Board of Trustees of the Los Angeles County Bar Association.

May Lahey was also a charter member of the Women Lawyers' Club. Anita Robbins graduated from USC Law School at the same time as Georgia Bullock. She was married to attorney Clay Robbins, and was the mother of our clerk, Clay Robbins. She was a deputy district attorney for some years before she married. Another member was Sarah Patton Doherty. She was married to Frank Doherty who was one of our top lawyers in Los Angeles for many, many years. She retired to raise a family.

The Women Lawyers' Club was incorporated in 1928. Many prominent women were officers and/or members — Shirley Hufstedler, who later became a superior court judge, a court of appeal justice, and then a judge of the Court of Appeals for the Ninth Circuit, and went on to become a member of President Carter's cabinet. A few others are Carla Hills, who presently is our trade ambassador in the Bush Administration, Elisabeth Zeigler, a judge of the municipal court and then a judge of the superior court, May Lahey, and Mabel Walker Willebrandt, who served in the Attorney General's Office in Washington, and who later came to Los Angeles and practiced law with a firm of which McIntyre Faries, who later became a judge of the superior court, was a member. She also was a role model.

With respect to the characteristics in my role models which were important to me, I was very much impressed, for example, with what Edna Covert Plummer had done with her life. She was aggressive just to the point where she was still able to get along well with the male lawyers, and she was a good lawyer. Proof of the respect they had for her was their acceptance of her on the Los Angeles County Bar Association Board of Trustees.

Mabel Walker Willebrandt was a very sharp lady. She tried several cases in my court when I was a superior court judge and I was most impressed with her ability. Both of those women had really distinguished themselves at a time when they had precious little help from anyone. At that time, although women tried to help other women, they really could do little because they were in no position to do so. The most help I received was from the attorneys I had worked with in the United States Attorney's Office, the attorneys with whom I had associated in Fresno, the federal judges to whom I had been assigned as an assistant U.S. attorney, and the male judges with whom I had worked on the municipal and superior courts. Also, Edna Covert Plummer and Mabel Walker Willebrandt had helped me considerably. Both had been very willing to do anything they could to be of assistance to me, but they were limited in what they could do. For a long while, I, too, was limited in what I could do for other women. The war, then the 1960s produced a more aggressive woman lawyer, one that more easily moved in the profession.

About 1953 or 1954, I drew the logo for the Women Lawyers' Club, which is still used. I was a founding member of the Lawyers' Wives Club, now known as the Los Angeles Lawyers' Auxiliary.

Gladys Towles Root graduated from USC about the same time as May Lahey, Georgia Bullock, Anita Robbins and others. She had specialized in domestic relations and criminal sex cases. She was very good in the limited area of her practice; she was also very colorful. She dressed flamboyantly and always wore big hats, low-cut gowns to court and lots of jewelry. She was an interesting woman and very knowledgeable and proficient in her field . She had tried a number of cases when I was in both the domestic relations court and criminal department. She presented herself well, was very articulate and very demanding in a dignified manner. She well represented her clients and gave them a good run for their money. She was very successful.

Prior to the 1960s, we, as women lawyers, tried as best we could to gain public acceptance. We used the Women Lawyers' Association as a medium of information for its members relative to current changes — new developments in the law, legislative changes, court reform, problems relating to women, and so on. We became as active as we could in bar activities. We weren't too welcome, but we did what we could, although we did not have much clout.

In the 1960s, we had more opportunity to help advance women in the profession, and in the 1970s and 1980s the Women Lawyers' Association became very active in the legislative field. Today it is active in many areas affecting women and has been a potent force in the professional life of the woman lawyer and has attained a proud status among bar associations and the State Bar.

THOUGHTS ON THE COURTS AND LEGAL PROFESSION

Over the years, I have noted many changes that have affected the judicial process and one of them is the relation of attorneys to each other and to the court. When I first started to practice, we all knew each other. Of course, I was in the smaller community of Fresno, but we all knew each other's ability, integrity, personality and strong and weak points. If we had a case against another lawyer, we knew who he was. We knew from where he came, his reputation in the community and how he practiced law; we knew that when he gave his word, we could rely on it. Because of the great increase in population, in litigation and in the number of lawyers, this is almost impossible now. In 1938, there were only 11,958 lawyers in California, and it was a fairly small professional community. Today there are over 150,000 lawyers in the state. Now the practice of law is impersonal. Other lawyers and the courts now are unable to rely on counsel in the way they once did. We know some of the lawyers who appear before us; we also know those who do sloppy work, lack preparation, are dilatory and lack decorum in the courtroom. But the majority of lawyers who appear before us are lawyers we've never seen before. So, we really have no way to judge them except by their briefs and their performance in oral argument.

Also, we have an immense judiciary now. There are in excess of 1,467 judges in the State of California. So our courts are really big business. At the time I was practicing law, there were small courts and not too many of them, and in 1938 when I was admitted, there were only 160 superior court judges in California; today we have burgeoning caseloads and many judges. The Superior Court of Los Angeles County has branches all over the county.

The Second Appellate District has kept up very well with the caseload. It is pretty current, and our judges work very, very hard, and our caseload continues to increase.

The 1960s saw a change in dress, in attitude, in manners, in mores, and in courtroom conduct; and a change in conduct and ethics among lawyers and between lawyers and the court — even the quality of work changed. The pace is faster; litigation has increased. The attention lawyers once paid to the quality of an appellate brief is no longer the prime consideration. They must move fast, go on to the next case. And in the mix is the important factor of billable hours — what all lawyers work toward. Sad to say, we find many appellate lawyers who have no familiarity at all with the rules on appeal. We see this particularly in petitions for writs. Most petitions are put together very quickly and very haphazardly. We cannot too strongly emphasize the importance of reading the California Rules of Court.

I have also noticed a drop in the quality of appellate briefs. Time is of the essence and often quality suffers. Some lawyers argue a case in which someone else in the firm or a paralegal has written the briefs; and unfortunately those lawyers are not prepared and often cannot answer questions that bother the court. Often we get a brief in a civil case that is a near copy of the trial memorandum; that is no way to practice appellate law.

We now are in such a fast pace and lawyers are so worried about billable hours that I think sometimes they lose sight of the purpose of the law, the majesty of the law, the idealism of the law, and what is fair and what is just.

Today, the lawyers and the courts are simply inundated with rules, and it is almost out of control. When I was practicing and later was in the trial court, there was limited discovery and we didn't have the extended pretrial motions we have today. We had time in which to try our lawsuits. They were real adversarial proceedings. Today, with the discovery rules, pretrial

motions and the fast track rules and pretrial provisions for sanctions, there are numerous traps for the unwary. The pitfalls for the lawyer who does not keep up to date are many. Petitions for writs filed in the court of appeal tell us of the numerous sanctions imposed because of slovenly practice, much of which generally is the result of failure to read and follow the rules.

Another thing that bothers me is the growing tendency to reduce personal contact between the lawyer and the court. I realize that the almost unmanageable caseload that made the fast-track program necessary can no longer be disposed of in a leisurely manner and I heartily approve of the results of the program, but in the process we have lost personal contact. Some law and motion matters in the trial court are handled by telephone; some appellate arguments are held by telephone and pleadings can be faxed to the clerk; and that's a great way to do it. It saves a lot of time. But it also removes the element of personal relationship between the lawyers and the court.

Another change is the development of the electronic media. A television camera in court at one time was a no-no. At first we believed that they detracted from the dignity of the court and interrupted the proceedings, but today if they are unobtrusive, and they generally are, and there is no disruption to the proceedings, and there seldom is, there is no reason they should not be in the courtroom. As long as news reporters can be present, I see no reason the television camera should not be there also. Today there are far more restrictions on the use of and presence of the media in the courtroom.

The judicial process is due for some major changes. For example, extensive pretrial motions are time consuming and unduly extend the process. This is true in both civil and criminal cases. I would like to see the lawyers get on with the lawsuit after it has been filed. I would like to see a criminal defendant, particularly in the felony courts, tried within a reasonable time. Pretrial motions and extended voir dire examination often delay the administration of justice. I am not for a moment suggesting that the rights of a defendant in a criminal case be curtailed, but procedures can be consolidated and shortened.

We have become a litigious society, and we seem to be doing everything that we can to encourage lawsuits. We publish how-to books to instruct the layperson from how to draw his will, dissolve his marriage, and file his lawsuit, to how to probate a will. We have sanctioned the use of

paralegals in the legal field which has invaded those areas that have heretofore been reserved solely for the lawyer.

Of course, the indigent defendant in our criminal justice system is entitled to a court-appointed lawyer — either a private lawyer or a public defender — paid for by the state; and the same applies to the convicted indigent defendant on appeal. In a certain type of civil case, the defendant, and also in some instances, a plaintiff, is also entitled to a court-appointed lawyer.

More and more litigants, some in criminal cases, but more in the civil field, are appearing in *propria persona*, which for us in the appellate court, most often results in very poor briefs that sometimes are almost unintelligible. It places on the justices the obligation of searching the record for error and of doing legal research for the *pro per* litigant. We often find ourselves researching a case from scratch, especially when there are two litigants who are in *pro per* in the same case. It's unfortunate for them, and it's unfortunate for the court, but more and more litigants are filing their own appeals, are writing their own briefs and arguing their own cases. This, no doubt, is due primarily to the increased cost of litigation; it is very expensive to hire a lawyer these days. Of course, there are other reasons — a litigant may think he can do a better job than a lawyer, or perhaps he can find no lawyer willing to take his case.

All this activity, together with a steady increase in population, new legislation, an extension of liability in various fields, an increase in lawyers and many other factors has placed a tremendous burden on our court system. The caseload has made necessary reforms designed to bring cases to trial within a reasonable time. Several years ago the Trial Delay Reduction Act was passed by our Legislature, which resulted in the fast-track project of the trial courts. It has done wonders to cut down the backlog — by weeding out stale cases and requiring cases to be tried within specific periods of time; but it has also spawned a multitude of problems for the bar and for the appellate court. We have an increase in filings of petitions for extraordinary writs relating to dismissals and impositions of sanctions, mainly because the bar has not yet gotten used to the idea that when a lawyer files a lawsuit, he is obliged to proceed with dispatch to trial. Lawyers are unfamiliar with the new rules and they find themselves in trouble; dilatory lawyers used to a leisurely pace haven't yet adjusted to the diligence required to make the fast-track system work.

We have a modified version of fast-track in our appellate system. Appellate litigants are entitled to have their appeals disposed of within a reasonable time. Most of the delay in the appellate court is caused by the inability of the court reporters to timely file their transcripts. This has created a great deal of up-front delay in processing appeals. Lawyers and litigants become very upset about it, and I don't blame them. In an effort to alleviate the situation, we have created an order-to-show-cause court for the purpose of bringing those court reporters who are in default into court to determine the reason for delay in filing their transcripts. Some delinquent reporters are fined, some are taken off of their daily work in the superior court until they finish the transcript for filing in the appellate court, others are admonished and, in a very serious case of lack of diligence and unwillingness to cooperate, a few days in confinement until the transcript is completed. A lot of this may be alleviated by an audio-video system, but to date, we are still plagued with dilatory court reporters. This has been our main source of delay.

It is the obligation of the presiding justice in the appellate court to move cases along for hearing because it is he or she who passes on motions for extensions of time, requests for continuance of oral argument, and all kinds of applications and requests that create delay. One of the favorite methods of lawyers in criminal appeals to gain more time after no further extensions of time to file their briefs will be granted is to request an augmentation of the record and thirty days after it is completed to file their briefs. True, the majority of requests to augment do not fall into this category, but there are enough of them used for that purpose, and that is wrong. This has resulted in the establishment of a local rule placing a time limit on how much augmentation can be requested.

I couldn't have lived for going on to 76 years, with my background and all the things that I have done, and my exposure to the critical comments, prejudices, and biases of others, without being aware of the inequalities suffered by females from the beginning of recorded history. And considering my background and my past experience, I simply could not be insensitive to women's issues! No way! I have a long, long memory of my experiences in the early days of my practice and the indignation and humiliation I suffered. Until you know the treatment of women lawyers, especially in the 1930s and 1940s, by male members of the bar and the courts, or the

experience of seeking a job or of practice in a large firm, you'll never come face-to-face with man's inhumanity to woman, or really have an insight into the problems women faced in the legal field, or comprehend the extent of the prejudice and gender bias which, sad to say, are still alive and well in the law firms, public offices and the courts today. Some time ago, the chief justice, as chair of the Judicial Council, appointed a high-powered committee of prominent men and women to look into the subject of gender bias. It conducted days and days of hearings and rendered a very interesting and comprehensive report. It is my hope it will produce some very constructive results.

One of the serious problems judges have to face is the election process. Elections tend to politicize the court, which is wrong. An example is the 1986 election. We are the only real security the people have for their constitutional rights, and the courts must be kept free of politics. It is well nigh impossible for a judge who is challenged to defend himself. It is fair to question a judge's qualifications or his ability or his professional conduct, but it is unfair to challenge him on the basis of sheer disagreement with decisions he has made. Inherent in any judicial decision is the inevitability of disapproval of those who disagree.

The judge has no friends. Certainly, the litigant and the lawyer who lost the case will not be his friends; the litigant and his lawyer who won the case feel that they should have won the case anyway. No judge is infallible; that is why we have a three-tiered court system to correct errors. If the superior court is wrong, the appellate court is there to correct it; if the appellate court is wrong, there is always the California Supreme Court and the United States Supreme Court.

No judge should have to explain a decision. If there is an opinion, oral or written, that opinion speaks for itself. If the decision is wrong, the Supreme Court will eventually correct it. It is in this area the voluntary bar associations could be especially helpful, in contested or retention elections. A rating system of judges is not the best assistance they could give for it is not always all that impartial and, in any case, it gets very little media coverage. Of greater service would be for voluntary bar associations to rise to the defense of a judge unfairly attacked or to embark upon a continuing educational program to make the public more aware of what judges do, the function of our courts and the importance of our legal

system. I dare say there are few voters who know what the administration of justice is all about.

The problem of fundraising is almost insurmountable for judges. It is embarrassing and humiliating — and very questionable — for the judge to have to go out and raise election campaign funds. With respect to judges of the superior court, who are those who often must face direct opposition, no one, except relatives or close friends, is really interested in contributing to their campaign unless he has a stake in the process. It is only human nature for someone who contributes money, whether it be an individual or an organization, with a special interest, to expect something for his efforts. And it is only natural that certain segments of our profession have interests they wish to advance. There is not a lawyer who is worth his salt who does not want to achieve the very best result he can for his client. In civil litigation, defense lawyers are interested in limiting liability; plaintiffs' lawyers seek to expand causes of action. In criminal cases, the public defenders and defense bar seek reversal of convictions, and the public prosecutors want affirmances of judgments. And it is the same with organized groups. There is really no one other than a relative or a close friend who makes a contribution to a judge's campaign who doesn't expect something for it. There is no easy way for a judge to raise campaign funds, even when others do it for him and he does not know the identity of his contributors.

Unfortunately, the public is generally unaware of the function of our judicial system and if it even knows of the existence of the intermediate appellate court, has no idea what it does. The public does not know that it does not make the law, that it does not hear witnesses or take testimony, that all it does is review what has been done in the superior court.

Few voters know a judge or a justice, and the public has great difficulty in evaluating a judge's qualifications or performance. The education of voters in this area comes mostly from special interest groups that urge a "yes" or "no" vote to advance their own interests. I remember Judge Gittleson of the Los Angeles Superior Court, who was defeated because of one case — the school busing case. It is unfortunate that the public does not know more about a judge — who he is, what he does, and his qualifications. Generally, it is voting out of sheer ignorance.

A judge should be accountable to the public, but I think only in the area of qualifications, his ability, and his conduct. Because it is far more

difficult for appellate justices to be perceived fairly and to defend themselves, than it is for superior court judges, a lifetime judicial tenure following the first election after appointment might be the solution.

Rule 976 of our Rules of Court provides the standard or the criteria for publication of opinions, and it became effective January 1, 1964. Up to that time, all court of appeal opinions were published. Thereafter, it was for the court of appeal panel to determine whether a case was to be certified for publication. I do not publish many opinions unless they really fall into one of the criteria. I have the normal pride of authorship but not enough arrogance to foist on the profession a deluge of opinions that really do not meet the criteria and have no place in the California Appellate Reports. I have no agenda and no coterie of supporters to impress. However, whether or not we publish depends upon the vote of the panel participating in the opinion; it isn't just one justice making a determination. Paragraph (c)(2) of rule 976 authorizes the Supreme Court to depublish any published opinion of the court of appeal. This section also authorizes the Supreme Court to publish those opinions not certified for publication.

The practice of depublishing is controversial. It was first utilized by Chief Justice Wright in 1970. I remember that in the old days when the Supreme Court depublished a case of mine, the chief would call me and tell me the reason. Of course, now we never know why a case has been depublished. Chief Justice Bird was critical of the practice of depublishing, and she often dissented when there was a vote to depublish an opinion. Her view was that all opinions should be published. Depublication has gained momentum with the present Supreme Court, and whether or not you approve of the practice, it should be considered in the light of the very heavy caseload carried by the California Supreme Court. It started out as a way for the Supreme Court to avoid granting a petition for hearing and further burdening its calendar, and burying a bad or a questionable opinion by removing it from the books to prevent its use as precedent and future citation by the bench and bar. In depublishing a court of appeal opinion, the Supreme Court may disagree with the disposition of the case, or, it may not disagree with the final disposition, but it finds the opinion advances a minority view, or, it feels there is too much dicta in the opinion, or, it disapproves of the reasoning, or, it finds the opinion contains a minor misstatement of a point of law, or, it determines the opinion creates a conflict

with other court .of appeal decisions, or, it concludes that it runs against public policy of which the appellate court was not aware, or, the Supreme Court wants to take over the issue but for some reason wants to wait for a better case, a more appropriate time or different circumstances.

While I might not always agree that a particular case should be taken out of circulation, I do agree generally with those lawyers who defend the practice who see it as a legitimate tool for the Supreme Court to manage the development of the law and its own caseload. I note that here in Division Seven, we are getting more and more requests for either publication or nonpublication by lawyers and organizations not involved in the case. It is becoming an increasingly popular technique of molding the law in California. It may be used, for instance, by groups who fear that if a certain opinion is published, it will eventually affect their own interests. Of course, we receive a lot fewer requests than the Supreme Court, but the practice is prevalent among public defenders, prosecutors, plaintiffs' lawyers, defense lawyers and special interest groups.

Once in a while, a lawyer not involved in a particular case will make a request for publication because he has a similar case and wants a precedent. Or, a lawyer who has a similar case will seek depublication or ask us to modify our opinion so that there will not be precedent against him in the books. We in Division Seven are pretty careful in determining in the first instance whether the case meets the criteria for publication. Then if there is a subsequent request for publication, depublication, or modification, we look at it again. However, we seldom change our minds because we have been very careful about the decision in the first instance. Most of the time we make a recommendation to the Supreme Court that we thought we were right in the first place and that nothing has happened to change our minds. I understand that in the last year, 142 opinions were decertified for publication.[1]

THOUGHTS ON "IMPORTANT CASES"

People are prone to ask, "What were some of your most important cases?" My reply is that every case I have ever had was important — important to the litigants — and the smallest case brought by a *pro per* litigant is just as important to him as is a big, complex case to a corporate litigant. I just

[1] At this point in the transcript a note appears in brackets: "reference to year and number must be checked before publication."

don't think there is any case more important than any other unless it is a case that has made a significant impact on the development of the law. Pretty generally cases fall in the category of being either interesting or not interesting. And while I'm fascinated by every case I've ever had, and I love the variety that I'm faced with every day, some cases hold more interest than others. One of them was *Jones v. Calder.*

Entertainer Shirley Jones and her husband Marty Ingels sued for damages for libel, invasion of privacy, and intentional infliction of emotional distress arising from an allegedly untrue article published by the *National Enquirer*, which is a weekly periodical of nationwide circulation. It is one of those newspapers one sees when waiting to check out of a supermarket. It is pretty generally a conveyor of gossip. The defendants were the National Enquirer, Inc., a Florida corporation which published the periodical, Calder, who lived in Florida and who was the editor of the periodical; and South, writer of the article. Calder and South were both residents of Florida, and process was served on them in Florida by mail. They appeared specially here in Los Angeles County Superior Court to quash service of process on the ground that California lacked personal jurisdiction over them. The trial court granted the motion to quash, and the plaintiffs appealed from the granting of the order. We reversed. In the opinion that I authored, we held that Calder and South had no special First Amendment privilege deriving from their status as employees of the publisher and, accordingly, the right of the California court to assert personal jurisdiction over them must be determined on traditional principles unaffected by First Amendment considerations.

Now, Calder did not enter California or even make telephone calls into the state in the preparation of the article, but jurisdiction over him was warranted because his acts performed in the State of Florida resulted in tortious injury to the plaintiffs in California, where they resided and pursued their occupations as professional entertainers and where the allegedly defamatory article was circulated.

Jurisdiction over South, who wrote the article, was warranted because, in addition to the tortious effect that his Florida activities produced in California, he had other contacts with this state sufficient to permit the courts to exercise jurisdiction over him. Those kinds of acts included gathering

information for the article, and one visit to California, and a number of telephone calls, and so on.

I was in Division One at the time, and we held that the California court had jurisdiction over Calder and South and sent the case back for hearing. A petition for hearing in the California Supreme Court was denied. Subsequently the United States Supreme Court took over the case and issued an opinion very similar to mine, which was most flattering.

The case of *Rogoff v. Grabowski* came to us on the pleadings, so we knew as facts only those alleged in the complaint. Plaintiffs were husband and wife and they decided they wanted to have a night on the town. They rented a limousine from the Starlight Limousine Service, which was owned by defendant Grabowski. The husband alleged that he had rented the limousine so that he and his wife could go to a pool party a distance away and wouldn't have to worry about driving home when they left the place. The limousine had a bar, and the plaintiffs had a few drinks on the way to the pool party. When they got there, they were dressed in bathing suits. They gave the driver a bag containing their clothes and toiletries; in addition, the husband gave him his wallet and some important papers in a briefcase for safekeeping. They spent the evening at the pool party, had been drinking, and very late came out to change into their clothes. No limousine!

They spent a frustrating hour or two trying to get transportation back to their home. It was further alleged that when they eventually returned home, the husband drove his own car to the limousine office and found his belongings, including his credit cards, scattered all over the office. Not only did he have to sign and pay to get his credit cards back, but included in the bill was a huge tip for the limousine driver.

One might think that he would sue for breach of contract. He sued for breach of the implied covenant of good faith and fair dealing and among other things, asked for recovery for emotional distress. Well, a tort remedy is not available for breach of the implied covenant of good faith and fair dealing in a contract for rental of a limousine, so we couldn't help him there. However, the plaintiff was left stranded without his clothes and his wallet. We held that he had stated a breach of contract cause of action against the limousine company and that he could recover emotional distress damages under this theory. Our holding was consistent with the recent trend of the California Supreme Court to limit the scope of tort remedies for breach

of commercial and employment contracts. This case suggests that in the proper case, emotional distress damages may be recoverable under contract theory if such damages are in the reasonable contemplation of the contracting parties. That is, the injured party in the commercial context can be made whole without injecting tort remedies and punitive damages.[2] ✯

[2] The following note appears at this point in the transcript: "End of interview. Note: Justice Lillie's typewritten notes on additional cases for inclusion in the formal interview are attached." However, they do not appear in the oral history transcript provided by the Bancroft Library.