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Interview with Elmer I. Schwartz, Class of 1926 (transcript)

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Recommended Citation

Schroeder, Oliver, "Interview with Elmer I. Schwartz, Class of 1926 (transcript)" (1988). *Oral History of Case Western Reserve University School of Law*. 10.
https://scholarlycommons.law.case.edu/oral_history/10

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Elmer I. Schwartz, 1926 graduate
Interview with Oliver Schroeder, October 27, 1988
transcription by Kerstin Ekfelt Trawick

We're now located in the law offices of Elmer Schwartz, 1148 Standard Building, Cleveland, Ohio, on October 27, 1988, speaking with our alumnus concerning his impressions of the study of law and the practice of law, as he has a long and distinguished career.

What class did you graduate in, Elmer?

Class of 1926.

What prevailed upon you to go to law school, and why Western Reserve Law School?

Well, I took my first year of law at Ohio State. I took my undergraduate work there, and my first year of law, to get a combination degree. After my first year of law at Ohio State my father found it practical for me to be in Cleveland instead of Columbus, and so I undertook to transfer to what was then Western Reserve for my second and third year of law school.

How did you feel about the transfer? The type of students--were they the same or different? And the faculty--what comparisons can you make?

Well, I didn't know that there was much difference in the students. It so happens that I have two sets of classmates. One of my classmates from Ohio State is now in this office! And so you might say I might have been blessed with two sets of classmates. And at this stage of the proceedings when there are so few of us left, I have more than most of them.

That's right. In Western Reserve Law School what do you recall about your teachers? Ones that impressed you, ones that you found were hard--anything you have in that way is very helpful.

Well, somehow or other I didn't do too well on the exams of Dean Dunmore or Professor Brightman. I got by, but I didn't do as well as I did with some of the others. But they were good teachers! I was probably not that good a student.

Were there any particular courses that you found more attractive than others, or more interesting than others?

No, I don't recall now that I found any courses any more interesting. I suppose if I did I probably would have concentrated more on my homework in those than in the ones I didn't care much about. But I didn't find that much difference.

Did you work at the same time you were going to law school?

Yes, my father had a shoe store, and I would help him there. And I

also helped him by being in Cleveland and not running up the expenses of being out of town! This was just before the Depression.

What were your fellow students like?

Well, they were a pretty good cross section of people. I don't think I could categorize them as one type or another.

Have you kept in touch with many of them?

Well, there aren't so many to be in touch with in my class! But I've been in touch with those that are around, on a more or less casual basis. You help it along by having your annual luncheons. The price is right.

Did you have a special reason for studying law? Did you have some relative, or were you just attracted by it?

I had no particular reason for studying law. Why I went into law school I don't know. They often say that a Jewish lawyer is a fellow who told his mother he can't stand the sight of blood. The parents want you to be in the professions somewhere, and they're eager for education.

Since you've gotten out of law school, what has been your general practice in the area?

My general practice has been-- a general practice! It leaned in the direction of negligence work, and probate work, and divorce cases when individual lawyers had divorce cases. It's always been easier for me to say what I don't do. I don't do criminal work, I don't do corporate work to amount to anything, and I don't do tax work to amount to anything. So with those eliminated, I have far less fields to operate in.

Have you noticed a change in the practice, in those areas which you have been doing for fifty years now?

About 62 years.

What changes have you seen in those areas?

Well, I've seen changes to the extent that there's an eagerness to come up with new or novel theories. And for that reason, there has been a lot of litigation. New things come up now, the matter of discrimination in job rights, because of age, because of sex, because of any number of reasons. There's been a lot of changes in the workers' compensation area. There have been a lot of changes, of course, in the tort field. And there has come up a field that's grown tremendously--it's the malpractice work. Originally it was malpractice cases against physicians, and now the worm has turned and there are malpractice cases against lawyers. But those are a little different. Most of those, I think, turn on forgetting deadlines.

You have participated very actively in the bar association, the

organized bar. Have you enjoyed that work? What value have you found in it?

Yes, I've enjoyed the work. I was more active in the Cuyahoga County Bar, as president of that association back about 23-24 years ago. We were smaller than the Cleveland Bar, so we were facetiously called Local Number 2. But it was very interesting work, in being able to get the lawyers to cooperate with each other, get them together and do the kind of things lawyers have to do for the protection of their position.

We talked about the changes in the substantive areas of the law. In the practice, like the operation of the law offices, what changes have you seen over the 60 years?

Well, there have been a lot of changes there, I think. Much of it has been computerized. It hasn't caught up with me or I haven't caught up with it. I don't have word processing machines, I don't have mechanical things--computers--to keep all the records. Those are great, but of course you have to have enough of a volume to justify that kind of an operation. And naturally, the ravages of time can reduce a lawyer's practice rather than increase it, at this stage in life.

During the course of your study of law, do you recall any amusing anecdotes about your fellow students or your faculty?

I recall one about Professor Finfrock. This goes way back. Professor Finfrock was very friendly with the students, and in fact I think in the early days he used to play in their poker games. At one time he came in and said, "After this it won't be 'Fin,' it'll be 'Professor Finfrock.'" But even that didn't last very long.

Finfrock was a very interesting person--

Oh yeah--

--and one that the students of that time always remembered. He was very close to the students, and very helpful to the students. I've known a number of older alumni who have said, "If it hadn't been for Fin finding money to get my tuition paid, I wouldn't have gotten through law school."

I wish I'd have known that then!

What about your fellow students? Did you have much contact with them after the classroom, or did you go your way working?

For the most part I went my way, but to some extent I fraternized with them. We had a law fraternity at that time, and some of them belonged to undergraduate fraternities. I didn't. But I met with them occasionally.

You've become a recognized master of the game of bridge over the years. When did that interest begin?

Well, it began right about law school or just after that. There were about four pretty good bridge players in my class who were very good friends and close buddies of mine, and it was through them and probably through osmosis or something that I acquired the ability to play bridge. And the inclination stayed with me and I always considered it one of the best of the avocations. I never got involved with it as a profession, but as an avocation it was great. I married later, and my wife was an excellent bridge player. She played on the American team in Italy, and I tagged along. Bridge has given me a lot of contacts. I remember in the fifties somewhere there was a bridge tournament down in Miami Beach, and immediately after that in the same hotel was a convention of what is now American Trial Lawyers. And during that two- or two-and-a-half-week period I would meet with my bridge friends from out of town and then with my lawyer friends from out of town, and sometimes if I wasn't careful I'd get them mixed up.

Do you have any recollections of the old law school building as a facility for studying law?

Well, that's where I went--the old law school building.

Do you have any remembrances there of the satisfaction you got--

Well, at that time I thought it was satisfactory, until I saw the new building! It's a beautiful building. I like the arrangements of the building, I like the way they have these small cubicles where you can study if you're so inclined without being disturbed.

I see you out there. You come out and use our law library.

No, I go downtown.

Were there any females in your class?

I think we had about two in my class. And I had a couple in my class at Ohio State. One of them at Ohio State later became, I think, the confidante and bailiff for the late judge Florence Allen. But the females in the class in those days were somehow or other a different breed. They were intent on the work they were doing, they looked more tweedy than flamboyant, they were shy and reticent. But there were usually only a couple in the class, and they found that after graduation they would wind up either in some clerical job in the courthouse or in one of the law firms doing work like probate or collection work that was routine. It's far different now. The ones we see now are smart looking, they look alert, they want to be at the trial table, at the first seat. But what's even more unusual, they're capable--as a whole. And it's like an entirely different ballgame.

Do you notice a difference in the general legal community in Cleveland over the past 60 years? What changes can you see?

Well, there has been a push toward numbers. Large firms are growing larger, and they're advertising and relying on the numbers. What used to be a firm of 50 is now a firm of 450. They have revolving doors.

People don't start out with those firms and stay there for the length of their careers. There are changes. I don't know whether they learned that from the professional baseball or football groups, but there are a lot of changes.

And of course with the larger firms there are specialties within specialties. It's been my notion that a good lawyer should be able to take a case on something that is not necessarily his specialty. Otherwise how would one be a specialist? Now if you take one case in a new field and you win it, you're a specialist already. And certainly with two. And this is what people pride themselves on. They tell the layman, go look up the background of the lawyer you're about to hire, find out what he's done, what his specialty is. So I frequently get calls now, bar referrals--"Have you handled this kind of case before?" Well, I don't think that that's controlling. I think that either I or any other competent lawyer can take a case in a field that he hasn't handled before. At some time he had to do that. But we're so wrapped up in specializing, together with the advertising of specialties, and this bothers me a bit. I shudder with horror in April when the new telephone directories come out with the yellow pages and the lawyers listed there in red and green ink. Anything but modest and retiring.

Would you say that you began pretty much as a solo practitioner, Elmer?

Yes. I was with another lawyer, and neither of us had too much business at that time. That's how I was able to learn bridge, I think.

Do you think there's opportunity today for a solo practitioner coming out of law school?

I think there is opportunity. Unfortunately some of the solos try to imitate the power lawyers. They sometimes charge fees that we would shudder asking for. And get them.

Now, is there anything else that's been stirred up in your mind? After I go, if there is something, don't hesitate to jot it down and mail it to me. We have a file on each person, and I'll just drop it into your file.

Well, I don't think of any particular incidents-- I think of an incident I was telling the other day. After I was out of law school. My father had a shoe store out in Collinwood, and he cashed a check for somebody there that worked at Fisher Body. I remember the man's name was Zhasg--Joe Zhasg--a good Hungarian name. At that time he cashed a check for something like \$35 or \$38, which represented a week's pay in those days. And the check was returned as having been a forgery.

So I elected to sue on it. And Fisher Body was represented by John Scott, of what was then known as Tolles, Hogshett & Ginn, the predecessor of the Jones Day firm. They filed an answer, setting forth that there was a forgery. And I filed a reply--this was in the

Municipal Court of Cleveland--to the effect that if there was a forgery then it was caused by the negligence of the defendant, Fisher Body.

Well, at that time this was really a way-out theory, like the new geniuses come up with. When I tried this case, my father got on the stand and I asked him, "Do you know this man?" "Yeah, I know him." "Did you ask for identification?" "No, I didn't ask for any identification, I knew who he was." I was a little worried about that, about his not being cautious and having identification before cashing a check. The check was more than the man purchased. I think he gave him back cash. What I undertook to show was that Fisher Body paid out their checks on Monday, but they did them on about Thursday and they left them in their office over the weekend. And this as I suggested constituted negligence and allowed the possibility of them getting into the wrong hands. The judge agreed with me and rendered the judgment for 30-some-odd dollars. They were pretty astounded. They were going to appeal it, but they finally decided to pay it and not go to the Court of Appeals for \$30.

So on the way back from the courthouse I was swelling with a little pride, that I had won this way-out case, and my father I thought would be proud of his young lawyer son. But his comment to me was, "I made a good witness, didn't I!" I found out afterward that it's always that way: your client thinks he was a good witness, that he won the case.

Any thing else you might have stirred up in your mind?

I don't know, I can't think of any--

Well, we have plenty of time on this, and you might think of something some night when you're lying in bed--

I won't call you when I'm lying in bed--

No, don't do that, because I'll be lying in bed too--

As a matter of fact, last year sometime they had me speak at one of our fraternity meetings--"60 Years in Practice," or something like that. And I recited some cases. But those had nothing to do with the law school particularly.