

Evo DeConcini
Oral History Project:
Arizona Legal History

Interview with James F. McNulty, Jr.
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THE EVO DECONCINI ORAL HISTORY PROJECT: ARIZONA LEGAL HISTORY

HISTORICAL NOTE

In 1985, James F. McNulty, Jr., former U.S. Congressman from Arizona and currently an attorney with Bilby and Shoenhair in Tucson, proposed that the Arizona Historical Society develop an oral history project to collect the reminiscences of senior judges and lawyers in Southern Arizona. As a former partner in one of the oldest law firms in the state, in Bisbee, he had long been aware of the wealth of information and experience expressed in many of his colleague's lives and careers, some of whom had been practicing law for over fifty years. In an effort to preserve and disseminate their stories and observations about the profession, the Archives Department of the Arizona Historical Society/Tucson developed a pilot program focused on Southern Arizona, with the goal of collecting the reminiscences of fifteen to twenty individuals associated with the legal profession over the last fifty years.

The project was funded through a challenge grant made by Roy Drachman and money subsequently donated by members of the Pima County Bar Association and the DeConcini family. At Mr. Drachman's request, the project was named for the late Judge Evo DeConcini, a highly-respected member of the Arizona Bar and a long-time friend.

Most of the interviews were conducted between 1986 and 1988, by Mr. McNulty. Interviews were also conducted by Robert

Palmquist, Jack August, and Adelaide Elm. Additional interviews with judges and attorneys conducted previously for other oral history projects were included with the DeConcini Project, to expand the scope of the project. The narrators, representing both rural and urban practices, were identified for inclusion by Mr. McNulty and other members of the State Bar. They included three judges, sixteen attorneys, the wife of a former state Supreme Court justice, and the legal secretary of one of the oldest law firms in the state. All transcripts and tapes are available to the public at both the Arizona Historical Society and the University of Arizona College of Law.

In addition to preserving the recollections of legal practitioners in Southern Arizona, the Evo DeConcini Legal History Project has spurred the collection and preservation of primary documents relating to legal history, such as day books, client ledgers, correspondence and photographs from law firms and individuals connected with the profession. It is hoped that the DeConcini Project will serve as a model for the collection of such memoirs and historic materials on a state-wide basis.

THE EVO DECONCINI ORAL HISTORY PROJECT: ARIZONA LEGAL HISTORY

SCOPE AND CONTENT NOTE

This collection consists of 43 cassette tapes (60 to 90 minutes in length), thirty-two 1/4-inch audio tapes, and twenty-one transcripts produced for the "Evo DeConcini Oral History Project: Arizona Legal History" by the Archives Department of the Arizona Historical Society between 1986 and 1988.

The collection is arranged in two series: (1) Oral interviews conducted for the project; and (2) Oral interviews gathered from other projects.

Series One consists of fifteen interviews: (1) Charles Ares; (2) Ralph W. Bilby; (3) Thomas Chandler; (4) Elizabeth Daume; (5) Ora DeConcini; (6) Gordon Farley; (7) Martin Gentry; (8) Thomas L. Hall; (9) Virginia Hash; (10) Norman Hull; (11) Ashby I. Lohse; (12) James F. McNulty, Jr.; (13) James Murphy; (14) Alton C. Netherlin; (15) Joseph C. Padilla; and (16) Wesley Polley. Interviews 1, 2, 3, 5, 6, 7, 8, 10, and 13 were conducted by Mr. McNulty. Interviews 11, 14, 15 and 16 were done by Robert Palmquist. Adelaide Elm conducted interviews 4, and 9, and Jack August conducted interview 12.

Series Two consists of five interviews: (17) Harry Gin; (18) Don Hummel; (19) Hayzel B. Daniels; (20) Rubin Salter; (21) Rose Silver. The Gin interview was conducted by Bonita Lam for the "Chinese in Tucson" project; Don Bufkin, Acting

Executive Director of the Arizona Historical Society, conducted the Hummel interview; Richard Harris and Carol Jensen conducted the Daniels interviews; Baiza Muhammad interviewed Salter for the African-American History Internship Project; and Rose Silver was interviewed by Mary Melcher for the "Women and Work: An Aural History," a joint project of the Arizona Humanities Council and the University of Arizona.

The bulk of the collection deals with the experiences and observations of these individuals relating to the legal profession in Southern Arizona over the last sixty years. The interviews document the following topics: education preparatory to the profession (law school, reading law, the bar exam); legal practice during the Depression, and the influence of the New Deal; relationships between the legal profession and politics; the role of judges vis a vis the Bar; the increasingly litigious nature of society; the effect of social changes on the practice of law; the experiences of women and minorities in the profession; and post- World War II changes in the legal system. Of particular interest are anecdotes about particular cases and clients; histories of several old law firms in Southern Arizona; University of Arizona Law School professors and courses of study; opportunities some had to practice law without a law degree; and remembrances of the colorful individuals who influenced the profession in Territorial days and early statehood.

The collection is valuable for its comprehensive look at

the law profession in Southern Arizona over the first half of this century, and its emphasis on the changes which have occurred within the profession during that period.



James F. McNulty, Jr., Interview

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James F. McNulty, Jr. Interview

James F. McNulty, Jr., born October 18, 1925, grew up in West Roxbury, Massachusetts. Following graduation from Boston Latin School in 1944, he served in the military for eighteen months at Fort McClellan. In 1946 he moved to Tucson and enrolled at the University of Arizona in the College of Business. In 1950 he married Jackie Boevers and in 1951 he graduated with an LLB degree from the College of Law.

After graduation, McNulty was hired by one of the oldest law firms in the state, Gentry and Gentry in Bisbee. While practicing law, he served six years in the Arizona Senate (1968-1974), where he was selected as the most respected member in 1970, and three years on the Arizona Board of Regents (1980-1980). In 1982, he was elected to the U.S. House of Representatives, where he served on the Interior and Public Works committees.

Following his congressional term, McNulty associated with the firm of Bilby and Shoenhair in Tucson, where he continues to practice law and maintain an interest in Democratic Party politics.

The first half of the interview reflects the influences of McNulty's upbringing on his later legal and political involvements. He credits the excellent education he received at Latin School and his experience as a member of high school and college track teams with providing a solid foundation for his later endeavors. He recalls his years at the University of

Arizona Colleges of Business and Law and mentions various professors and students with whom he associated.

The remainder of the interview deals with McNulty's legal career in the firm of Martin Gentry in Bisbee, his years in the State Senate and on the State Board of Regents, his long interest and involvement in politics, his attitude toward the present of the legal system in the state and his term as a U.S. Congressman. Of particular interest are his reflections on the relationship between politics and the law.

JAMES F. McNULTY INTERVIEW

Today is October 6, 1986. We're in Tucson, Arizona, at the University of Arizona. We're interviewing James F. McNulty, Jr. [Interviewer is Jack August. Also present is Tim McIntire, sound technician.]

August: Jim, could we begin with some biographical information?

McNulty: Yes, indeed.

August: When and where were you born.

McNulty: October 18, 1925, in Roxbury, Massachusetts.

August: All right. And any siblings?

McNulty: I have a sister two years younger than I and another sister seven years younger. That's the family.

August: Great. Your father and mother, was your dad employed in Roxbury?

McNulty: My father, James F. McNulty, Sr., was born in Springfield, Massachusetts. He was the son of Mary Motherway and John Davies McNulty who were born in County Cork and County Sligo Ireland, respectively. John Davies McNulty came to Springfield because his brother Frank had preceded him from Ireland to New England, found a job with the railroad and, as was so common in those days, Frank wrote back to my grandfather and said there was a job as a car knocker with the Boston and Albany Railroad. And that's how come that side of the family were raised there.

My mother was born in Providence, Rhode Island. Her parents were Edward Cull of Aughrane in County Leitrim and Mary Gollogly from Drumraine, actually now those places are gone. She considered, before she died, the town of Ballinamore in County Leitrim as her home town. The two families lived within three miles of one another but, as was very common in those days, Edward Cull and Mary Gollogly did not know each other in Ireland but met in Providence, Rhode Island. She came to work as a maid. He came to work for the gas company. And my mother was born in 1898 in Providence. Her father was killed in an explosion in the gas company, a manhole, where they were working.

They both, my four grandparents combined, I don't suppose had twenty, twenty-five years of education, cumulatively. But my father graduated from Springfield Technical High School and then did an additional year learning to be a draftsman for the Chapman Valve Manufacturing Company in Indian Orchard, Massachusetts. My mother graduated from Providence Classical High School and then spent another year and learned shorthand and typing and became a legal secretary in Providence, which, for immigrant peoples was quite a success. And they met when he was in Providence on some kind of business

with Chapman Valve. They married and the company sent him to Boston, Massachusetts where I was born. He lived and worked out of Boston for Chapman Valve until he retired in 1962.

August: Very interesting. Is he still alive?

McNulty: No. All four grandparents are gone. Oh, and both my parents are deceased as well.

August: Deceased as well?

McNulty: Yes.

August: Therefore your childhood was spent in New England in the late 1920's, early 1930's?

McNulty: Yes.

August: Some of your earliest memories therefore must be of the Crash and the Depression. Do you have any memories of that?

McNulty: (laughs) No. I don't have any memory of that as such. I was born in 1925, and by the time the Crash arrived I was still only five years old. My father never missed a day of work through the Depression. We three kids ate, as I saw it, adequately. By then we had moved to West Roxbury, which was regarded as a step up in scale. We lived in a two-decker house, but we had the bottom floor. The houses were about thirty feet apart. We lived on a street called Oriole Street and as far as I know every house had an Irish-Catholic family with children, so we had no

sense of being torn out of joint or at odds with our surroundings.

August: Were you aware of President Hoover, President Roosevelt? Any change? Were you politically aware at a very young age?

McNulty: Well, I think all the industrial states, to a significant degree, and all the heavily populated cities within those industrial states were simply wild in favor of Franklin Roosevelt. I know my parents certainly were and I remember Franklin Roosevelt coming to Boston to be met by enormous crowds. He ran extremely strongly everywhere in the country in 1932 and even more in 1936, but these kinds of places were really his heartland. The big east-coast cities. The West in those days didn't have the population or the clout, with the exception of California, to figure much in the political process.

August: Right. Your local environment and your elementary education, I have a few questions about that. First of all any distinct images of grammar school?

McNulty: Yes. I went one year to parochial school in Dedham [Massachusetts] before we moved to West Roxbury. It was a school affiliated with the parish there. But all my young life I spent, as we used to say in those days, in St. Theresa's parish. That's how you

identified yourself in the Boston that I knew. You might say you were from Jamaica Plain or Roslindale but you'd also say, I'm from Star of the Sea parish or St. Theresa's or Holy Name, whatever. So the parish was a very significant part of your life. I went to a public grammar school, the first six years. It was probably three-quarters of a block from my home. And I was a very sickly child and so for that reason my parents were glad for me to be able to go to a school that was near at hand. I and my two sisters all went through the Randall G. Morris School which is there to this day.

August: I see. Any reason from, any family reason for changing from the parish to the public school?

McNulty: Well, after I, I suppose I went to Morris, Randall G. Morris, instead of the St. Theresa's parochial school because it took about four-and-a-half minutes, or, I don't know, but it took a very short period of time to get to that school. The St. Theresa's Parish School would have been a couple of miles away and it would have had to have been walked. There wouldn't have been any way there. In high school, though, there was the opportunity, I was going to have to travel then wherever I went, public or parochial, but I wanted to go to public Latin School and it was regarded as the superior high school in the city and

by the time we left it, of course, we thought it was the superior high school in the world. And it certainly is one of the superior secondary schools of the world. So I went there. But that involved some considerable effort in travelling.

August: Interesting.

McNulty: I did the six years. You can go there for four years or you can go for six. If you go for six, why you see, you started in the seventh grade, so I was really a pretty skinny frail guy, as were others, at the age of twelve in Latin School.

August: You mentioned you were, you had some, you were a little bit sickly. Do you want to elaborate on that a little bit for the record?

McNulty: I was more than a little bit sickly. When I began the fourth class, as we called it at Latin School, we didn't count grades. You went from the sixth class through the first class, kind of like an English school, in many ways, and a first classman was the cock of the walk. When I was in the fourth class, which was the equivalent of freshman year in high school, I lost something like 140 days and was required to repeat the fourth class. So--I was very susceptible to colds and bronchial troubles and I was very, very frail. I think my mother told me I weighed sixty-five pounds when I was twelve years

old. But that all worked for the best in the sense that I did an enormous amount of reading that year in bed and read about Theodore Roosevelt being similarly disaffected and how he had run his way to health. And on returning to Latin School that following fall to begin my freshman year over again, I went out for the track team. And I'm satisfied I was the sorriest track prospect that public Latin School had seen in over three hundred years of existence. And I was very poor, but I was determined. I ran for two years, in my freshman and sophomore year. I never scored a point. They didn't even give me a warm-up suit, which meant I was only sort of on the team. But they had open events over at the old West Newton Street Armory, which is where we ran our indoor track meets. It was just a great big building, and to accommodate it to track they built these enormous things, they called them corners, that were made out of plywood. And they were kind of a big triangle set right at the center of what you'd think of as the corner. And of course that made an exceptionally sharp corner and the trick was to run into those things full tilt and just before you got to them swing away from the pole, which you would not ordinarily do in a track race--you want to stay as close to the pole as you can--and hit that corner

then in such a fashion that it absolutely propelled you off the far side of it and threw you back towards the pole. It was kind of tricky, but everyone did it so there wasn't any sense of being discriminated against.

August: (laughs) Along the line of your elementary, junior high, high school education, any subjects that early on you did well in, liked a lot or on the other hand that you disliked or wanted to stay away from?

McNulty: I got extremely good grades in elementary school. I don't believe I ever got anything other than an A in any subject in any marking period in any year. And in Latin School I did well, too, until the illness caught up with me. Oh, today as I fancy it, I think I liked history and political science more than I did the other sciences. But Latin School really wasn't interested in either of those things. For at least three years we had six classes a day and one of the classes was a study hall and of the other five classes at various times I would have been taking English, Latin, French, and German. So that left the field fairly thin for other courses. In six years in Latin School you were allowed, when you were a third classman, the equivalent of your sophomore year, you were allowed to decide whether you would take two years of Greek or two years of German. Now you had

to justify the choice. If you were going into medicine you'd ask for German. If you were going into law and asked for German they'd tell you to either take up medicine or take Greek.

August: Okay.

McNulty: But that's all the options there were.

August: At this time, in your adolescence, international events are perhaps foremost in American political affairs. Did the impending war in Germany, any of those events have any impact on you and your family in any direct way?

McNulty: My strongest recollection along those lines was the day that Pearl Harbor was bombed. Well, I was fifteen years old then, you see.

August: Yes.

McNulty: But then I don't remember having any strong feeling or much international awareness prior to that time. But the bombing of Pearl Harbor was such a stunning thing that the memory of that is very clear. Especially, that was on a Sunday, of course, at mass that morning the choir instead of singing "Holy God We Praise Thy Name" as the recessional--which it seems to me we had done for three hundred years before that, that may be an exaggeration--sang some song--I don't remember, "America," or--but a patriotic song. And that memory is very vivid in my

mind because it was so different from what had gone before.

August: Yes. Therefore Hitler, Germany and the involvement in Europe had little impact . . .

McNulty: I . . .

August: . . . you just knew what was going on?

McNulty: That's not quite so. Because I do remember going to a play at the old Wilbur Theatre in town in which this emerging brute of Naziism was dealt with in a dramatic way. And I do remember professors, or masters as we called them in Latin School, talking about Hitler in condemnatory tones. And Boston Latin School was about forty percent Irish-Catholic and forty percent Jewish and, of course, the Jewish kids, they were much more sensitized to all this business. The truth is though, that for some of the, the Irish with brutal tendencies, the idea that a Hitler would arise and do enormous damage to Great Britain was a point in the guy's favor. Not mine and not any of my close relatives.

August: Yes.

McNulty: But in the larger Irish society I heard congratulatory things said about Hitler and the Germans as fine people and there'd been some minor German assistance to the Irish in World War I when Sir Roger Casement was caught, convicted and hanged

for trying to import weapons. And it's true that Ireland rightly regarded England's time of peril as Ireland's moments of opportunity.

August: Interesting. Also, in the kind of cultural environment of Boston during this period probably the preeminent institution in the area of higher learning is Harvard. Did Harvard and growing up around Harvard have any impact on your life as a young person?

McNulty: Well, kids from my background, Harvard was a very, very long distance away. Latin School annually won the prize for sending more students to Harvard University than any other school, including Exeter, or Phillips Academy at Exeter which was regarded as the preparatory school for Harvard. But we were a big high school. We had as many as, oh, 2400 kids spread over the six classes. They really thinned out though. You could not assume from that that there were 400 in each class, because Latin School had a ferocious fail figure. So of the four hundred kids you began with you'd lose probably a third of them in the first two years. And then they allowed kids to come in at the ninth grade level for four years. Well that swelled your class up again. But I think we were still lucky to graduate 325 kids per year.

Well, sure, Harvard was regarded as a remarkable

thing. I never had the faintest idea of going to Harvard because we didn't have that kind of money. I think my father was earning in the bottom of the Depression about sixty dollars a month, although I know people that say that was a damned good wage in 1935. Nothing to be ashamed of. But Harvard really seemed entirely beyond my grasp, but not college. Latin School insisted that one hundred percent of its graduates go to college and they did not often miss that figure. Not even through the depression times. And they were good about trying to find scholarships. But this was the old hard times. Kids worked incredibly hard to get adequate grades and to get adequate money to go back to get some more adequate grades. And it was a kind of a commitment I don't think kids have to make these years. But that was the circumstances of the time too. The nation was really on its uppers, so to speak. So when I did get into Harvard, some years after this, not very long, why that was quite a feather in my cap and I felt very good about it. But that was also a function, not merely of Latin School, but the G.I. Bill. And importantly so.

August: Yes. To go back for a little bit. For the better part of the war you were a teenager.

McNulty: I was.

August: Did you have any involvement in the mobilization effort before you entered the army in 1944?

McNulty: Yes. I kept going down trying to get into the air corps. Every kid I knew wanted to be in the air corps. And I went to one recruiting station, I flunked that thing they call it the Ishihara dot test. It's a bunch of colored dots. They're just in light shades and there's a pattern of those shades that more or less makes a number on this, oh, photograph-size thing with these different colored dots. But I couldn't begin to see that. So I went to another recruiting station a little while later and I flunked that, too, and they wouldn't have me.

But we were very conscious of that because, you see, I was eighteen in 1943 and eighteen-year-olds were going to the army. That was the moment of our most desperate need of cannon fodder. I got almost a five-month hiatus because the chairman of the draft board in West Roxbury was Professor Cheatham, the head of the mathematics department of Boston Latin School. And I wanted to run. You see, by this time I had become fairly good. When I was a junior I ran for Latin School and we set a record in a one-and-a-half-mile relay, and I came in sixth in an event they called the regimentals. Every high school in the city of Boston competed in this event at this armory

that I mentioned. Well the competition was fierce because Boston had, oh, between three-quarters of a million and a million people in the city limits those days. So as a junior to come in fourth in the four-forty, why I knew that I was on my way to bigger and better things. And I wanted to run my senior year, which would have been the spring of 1944. But as I said, being eighteen since October 18th made that unlikely.

So, the high school and the colleges in the Boston area--of which there are a large number--got together and made a deal and said that if senior kids finished the equivalent of their first semester--we didn't have semesters in those days--by Christmas with good grade averages, the high schools would allow them to matriculate at any college or university of their choice and if they got passing grades in that semester of college, the high school would accept that as the equivalent of work at the high school. It was a way to put warm bodies in the colleges that were desperate for students or even non-students if they would enroll. So I went to Boston College, a Jesuit School, which is probably where I would have gone if I had not had the G.I. Bill. It was for poor kids, and they were predominately Irish kids I think, though the Italian

community was really beginning to grow in those days. Why I went out there and I think eight days after I signed up I was a member of the Boston College mile relay team, competing against Holy Cross, the great rival of Boston College, in the B.A.A. games, the Boston Athletic Association games, in Boston Garden, the same Boston Garden that the Celtics play in today.

August: My goodness. Did you do well?

McNulty: We won, and one of the members of our team was a fellow named Herbert McKinley who was from Jamaica. His father was a dentist down there. McKinley won the Olympics in 1948 in the 440. So that was life in the fast lane for me. Running there that night in Boston Garden and--there were a bunch of Latin School kids up in the stadium hollering and I felt pretty good about myself. (laughter) The following week we went to Madison Square Garden and ran in what they call N.Y.A.C., the New York Athletic Club games which was another premier indoor track event in those years. We were beaten this time, though, by the University of Rochester, which had become a big naval training station and like the Great Lakes Naval Training Station they had recruited athletes into their schools. Great Lakes had a great football team; Rochester had a great track team. Five days

later I was inducted at Fort Devons, Massachusetts.

August: Okay. How long were you there?

McNulty: In Fort Devons?

August: Yes.

McNulty: Oh, I suppose a week at the most. That was the same place my father was inducted in World War I, incidentally. Then off to Anniston, Alabama, Fort McClellan, where I stayed for about eighteen months. I was held back as cadre after I completed seventeen weeks of basic training. Most of the other guys went into the 106th Division, which was all kids and old-timers and utterly unprepared for war, and the Germans found them in the so-called Battle of the Bulge and finished, eliminated, that division in a space of two or three days; and made the enormous breakthrough, oh, probably twenty-five miles or more into France and Belgium and isolated General McAuliffe and his paratroopers at Bastogne.

August: Yes.

McNulty: But it was the last gasp of the German war machine. And after von Rundstedt had completed that it was all over and the Russians, the Americans and the British just marched as fast as they could, or as fast as the vehicles would take them. The war was not long to go.

August: Therefore, you spent most of the war then in

Alabama . . .

McNulty: Yes.

August: . . . or your part of the war?

McNulty: Right. I never was overseas.

August: Not overseas. Okay. Upon the cessation of hostilities, you've mentioned earlier you took advantage of the G.I. Bill.

McNulty: I returned to Boston.

August: All right.

McNulty: I wanted to go to Harvard. I went to see Francis Cleary, who was the counselor for the [Boston Latin School] seniors. He said, "Harvard will take a few kids in January"--this was October, 1945.

August: He said, "We'll take a few kids and"--I'm sorry, I can't remember if it was 1944 or 1945. What. . . .

August: It was probably 1945.

McNulty: When did I get out of the army?

August: It says here 1945.

McNulty: Okay. Then it was October of 1945 and Cleary said, "Harvard will take a few kids in January." We do that all the time these days, but that was kind of breaking the pattern. But he said, "I don't imagine they'll take over fifty kids and I've heard that there are 700 wanting, trying to get in." So he told me who to go see in Cambridge and I did. And the guy confirmed those figures and said, "We will give an

eight-hour examination Saturday before Christmas and the best fifty or sixty scores will be admitted to Harvard." So I took this--that was the longest test I'd ever taken--and received my admission to Harvard. And we signed up--my mother was very pleased with that--and I started making arrangements to begin the first week in January of 1946 at Harvard.

And then I got sick again. And that went on for about a month and I spoke to the doctor that I had had ever since I was a child, a fellow named John Reardon Barry, a big handsome Irish fellow who did most of his work by coming to the homes of relatively poor people we were, and then did the rest of his work at nights. The parents and kids all went down to the doctor's office from about six to nine [o'clock] at night. He would work five nights a week. So I got into kind of an argument with him about my perceived deficiencies in medical science and the inability to keep me well and I remember him saying, "Well I can straighten you out in a hurry. But you won't do what I tell you." And I challenged him right away. And he said, "Go down to the South Station and go to New Mexico or Colorado or Arizona or one of those places." And I told him, by damn, that's exactly what I was going to do.

I spoke a little rashly, of course, because I

had no plans like that (laughter), but I speedily made them and on January 5, 1946, I got off the Chicago coach here in Tucson and walked across the street to the McArthur Hotel and told the guy I'd like a room for the night. He asked me if I had a reservation and it was on the tip of my tongue to say, "A flea-bag like that needing a reservation seemed a bit much." I told him, no, and he said come back in May.

August: Seriously?

McNulty: Yes. So I went back to the Travellers' Aid which was a great volunteer service, mainly the women of America, for the service people. And I, I was wearing army clothes, as were all the other students. That's what we wore until we wore them out. She told me, "There's a room up near the University." And I said, "That's what I want." She said, "It's the last room in town, I think, and it's not very nice. It's five dollars and a cab ride will cost you about sixty cents." Up I went. It was 207 East Third Avenue.

August: Okay.

McNulty: You know, it's nine blocks from where we're sitting right now, about.

August: Yes.

McNulty: I found out later it was a home for tuberculars, but I didn't know that at the time and I was very tired.

An old slattern of a woman met me at the door and demanded the five dollars before she'd let me through the door. I paid her gladly. She showed me into a room with a big, extra big, we'd say queen-size or king-size bed now. But it was a homemade, ugly-looking bed, but it was entirely comfortable. So I took a shower, jumped into that bed and slept better than I've slept since, probably. (laughter) And woke up in the morning and there was another guy in the bed. She had sold the other half of the bed for another five dollars and that was my introduction to Arizona hospitality.

August: Interesting, your earliest impressions of Tucson. What did you do? Did you just knock around?

McNulty: I liked it at once. And I'm not sure why. It, there wasn't a whole lot to see in 1946. The town pretty well petered out by the time you got out here, say, to Tucson Boulevard. I had to walk back and forth to school from the 200 block--well let's see, Park is 900, so it would be seven blocks. I met another veteran going through registration, a fellow that-- I'm still in contact with him occasionally. And he had a car and we wound up renting this room that I'm telling you about, only we replaced the bed with bunk beds, and the two of us stayed there that first semester. To think though, I came here sick.

August: Yes.

McNulty: And in the Border Conference track meet in May we won the Border Conference track meet. I finished third in the 440. I ran a lap on the winning mile-relay team and I've never looked back, since.

August: (laughs) That's interesting. You were ready to matriculate at Harvard and ended up here at the U. of A.

McNulty: Yes.

August: On the track team.

McNulty: Yes.

August: You went straight through here?

McNulty: I went to see Registrar C. Zaner Leshner. Zip Leshner. He used to be the tennis coach. His son is an attorney here in town today. He took the transcript from Latin School, and he just kept making these admiring sounds, "Oh, fine. Splendid." He, of course he liked the curriculum and so he was very positive, very encouraging to me at that time and I entered College of Business.

August: Okay. College of Business. Straight through. You made your undergraduate major in business?

McNulty: I, Yes. For two-and-a-half years. I worked summers in Yuma. I tied up with a fellow named Jack [John H.] Bryant who is a nephew of George [W.] Chambers, who was the business manager of the old Tucson

Newspapers and later a publisher of fine books called Arizona Silhouettes. In fact, you may have seen some of those things.

August: Yes.

McNulty: And you may look at some of the wood carvings in the Arizona Silhouettes and you'll see the name Bryant. And that would have been this Jack Bryant's brother Bill [William H.] Bryant, who is a good writer and quite an artist in his own right. Well, Bryant had an uncle over in Yuma who was the mayor of the town and said he could get us jobs in the cantaloupe sheds in 1946. I went down there and made 100 dollars a week.

August: A week?

McNulty: A week! I had so much money I went and, for the only time in my life, hired a barber to give me a shave. (laughter) So you know that I was in tall cotton.

August: Still, it must have been difficult work in the summer in Yuma. You must have lost weight.

McNulty: Well, I with the track, you know I ran at about 153 pounds. And I'm sure I weighed that for the entire five-and-a-half years here. And the day I graduated I ballooned up to 170 and that's thirty-five years ago and that's what I weigh tonight, and always have. But you've got to run skinny. You sure do.

August: Sure.

McNulty: And the heat, I don't know. I was so healthy and things were so fine for me I don't have anything but very warm recollections of those years. And at the end of two-and-a-half I was told that if you had eighty units with a C average and you want to go to law school, you just walked over and started going to law school. So I did that.

August: Wow. So you didn't really get an undergraduate degree.

McNulty: No, never did.

August: You just had a nice kind of transition over to the College of Law?

McNulty: I did. I went over there in 1948. And three years later I had an LLB. Now if I will mail the University of Arizona that degree and twenty-five dollars, they will award me a J.D., Doctor of Jurisprudence degree. But I don't believe in retrofitting people. My ambition is to live so long that I'm the last living holder of an LLB degree. I must say, though, that this guy named Tom [Thomas] Chandler intends to contest that honor with me very vigorously.

August: (laughs) Okay. A little bit about the law school. Do you recall any of your professors?

McNulty: Yes. I recall every one of them.

August: Every one of them?

McNulty: Every single one.

August: Any one that at least tonight we can discuss?

McNulty: Well, John [D.] Lyons [Jr.] was the dean. He had been a superior court judge. His widow lives here in town and his kids are around too. And I think one of them is a lawyer. I know one's a lawyer. Another one lives right, almost next door to me in Tucson today, down in Snob Hollow. He was from New York. He was not a well man. He, he was the image of the noble patrician. He was an exceptionally fair and gentle, thoughtful man and he was an outstanding teacher. And I feel capable to make those judgments because I think Boston Latin School must have had some of the finest teachers that ever lived, many of whom could have served as models for Goodbye, Mister Chips. And Theodore White, who recently died, who wrote the books The Makings of the President, he wrote a book on Latin School, where he identified some of the teachers he remembered.

I remember Chester [H.] Smith. He may have been the finest teacher of all. He had a passion to teach and he wanted you to, to be taught. And he wanted you to learn. He also gave the bar review every year, and he was an outstanding man. And I remember Claude [H.] Brown, of whom every warm body in law school was in deadly fear. He had a very slow, dry

way and he used a Socratic method of teaching and I think if you did not tremble walking into his room you were a candidate for rigor mortis. He just recently passed away. He was an outstanding teacher. I had a teacher named Art [Arthur] Henderson in Corporations, who was a partner in the law firm in which I am now a member. He taught on the side and he's remembered around the firm as being one of the very brilliant people, perhaps the most brilliant person who went through this firm where very many talented people had worked. And he was an exceptionally bright and capable man.

August: Maybe this is a bit of a contemporary question. Do you recall very many women in law school with you at that time?

McNulty: No.

August: Were there any?

McNulty: Yes. My seat-mate was Mary Anne Reimann, who later became Mary Anne Richey and she later became a federal district judge and I was a good friend of hers and very proud when she was appointed to the bench. She bore up being the only woman in very good spirits. She was a little older. She'd flown planes as a ferry pilot for the Air Force. Not in the service, although, good God knows, men in the service did things that were less dangerous than what she

did. And for whom only belatedly and begrudgingly the government made some, oh, halfway decent kinds of things to provide some benefits to which they were richly entitled. And I guess she's the woman that I, and the only woman if that's so, perhaps so, that I remember from law school. And there weren't any black kids and there weren't any, hardly any hispanic kids

August: Yes. Any native Americans?

McNulty: No.

August: Well, that's not surprising at that time. According to your record here, you were admitted to the Bar in 1951.

McNulty: I was.

August: Was there a bar examination at the time you had to take?

McNulty: Oh, yes. Yes. It was a two-and-a-half day examination and it was conducted here at law school. It was given after the six weeks of bar preparation. Chester Smith taught that out in his back yard and on his porch. And it was seven o'clock to nine-thirty Monday, Tuesday, Wednesday, Thursday, Friday, Saturday. And then seven to nine-thirty at night Sunday, Monday, Tuesday, Wednesday, Thursday, Friday. And then some kids took a course or two after that session in the morning. That's a pretty intense kind

of an effort, you see, and then into the bar two-and-a-half days and then off we went to various places.

August: Do you recall how you felt after taking it? Did you feel you passed?

McNulty: Oh, I think I felt principally a feeling of relief that all of that was behind. I don't think I had a firm feeling on whether I'd passed or not. And I don't think most of us did. I don't think we knew enough to know whether what we had answered was satisfactory. Very few of us typed. We wrote it out in long hand. They were all essay questions. And, my goodness, it took an awful long time for these bar review, or bar examination folk to read those things and grade them.

August: Yes.

McNulty: I'm sure we didn't hear--August, September--for three months.

August: Three months?

Tape 1, Side 2

August: Besides yourself, are there any distinguished members of your class worth noting, or that you can recall?

McNulty: Well, Earl [H.] Carroll is a federal district judge in Phoenix now. He was a classmate and a friend of mine while he was there. And, well, the Udalls have

been to law school--if you're talking about who graduated in 1951 I have a hard time knowing that because so many veterans, and they had by then gone to summer sessions of law school. And crying out loud, the guys were graduating all year long. So we didn't have the same rigidly defined classes in terms of years, the year that you began, the year that you graduated, that you do now.

August: Yes.

McNulty: But I do remember all of them. Dean [Charles E.] Ares, he was a little bit after me. I don't think of myself as aged, but I guess over 95 percent of the members of the State Bar of Arizona today have been sworn in since I was sworn in.

August: I see. Before we leave this period of your career and your life--and I'm referring here to something that you've jotted down--how, or perhaps more precisely, why did you enter the law, the legal profession?

McNulty: I suppose because I hung around with a lot of law students. I think of Harry [W.] Bagnall and Ed [F. Edward] Larkin. I lived in a building that I just passed an hour ago coming up Third Street, or University as you now call it. It's called Franklins, but when I was here it was a small sort of dormitory. Mrs. Solomon, Hattie [F.] Solomon--that

would be the Bloom and Fern family; her daughter that married the tennis player, Dutch--I think he's still around here--they rented out rooms on the second floor of the house and I roomed with a guy named Harry Bagnall who was the cashier at the Varsity Inn, an old place with pillars on it where I worked as waiter for three years. There's nothing of that left now, but if you went down to University Square from here it would have been, oh, about the second building on the left as you walked westerly.

August: Okay.

McNulty: That was owned by an old fellow named Manny Kaplan who had come from Russia. He used to teach me Russian expressions. He had fled before czarist pogroms. He was a Jew. He had two children. He lived in a little old, not much of a house on Sixth Avenue and ran this restaurant. His son is chief of psychiatry of Cedars of Lebanon, a big fancy hospital in Los Angeles now. Manny was admitted to Harvard Medical after he graduated from the University of Arizona, a very bright kid. And he got married back in Boston and my parents went to the wedding. We kept up those ties. And Manny would let me sleep in the back of the place--and all that's kind of funny because I finally wound up in 1951 down in Bisbee, Arizona, with a guy named Martin Gentry who had lived

at the Varsity Inn himself as a freshman at the University of Arizona, and had worked for the owner, who then was J. F. McKale, later director of athletics at the University of Arizona.

August: Okay. Interesting. Before we leave this period of your life, one of the key, I guess, events in many people's lives is marriage. When, how did this happen? At this time, you met your wife?

McNulty: I met Jacquie [Jacqueline] Boevers when I was in the Phi Delta Theta fraternity house. She was in the Pi Beta Phi house. We both worked on publications at the University of Arizona. This fellow Jack Bryant, to whom I referred some time ago with respect to cantaloupes--he's now a medical doctor with the Rockefeller Foundation--talked the student council into publishing a literary magazine called Lit.
L-I-T.

August: Yes.

McNulty: That only survived as long as Bryant and I were here to publish it, but it was devoted to serious works of fiction and non-fiction and poetry. And I've still got the copies of that. I thought it was a pretty decent thing at the time. And I also worked on the campus humor magazine, called the Kitty Cat, which--they don't have those, which is just as well, because if they did today they'd be so vulgar you'd need

gloves to pick them up. But, I got to know her then. And I don't remember what year, perhaps 1948, and we were married in 1950, in September.

After I finished working with this fellow Harry Bagnall, who I named a little while ago, who had left law school, gone to Coolidge, become City Attorney and talked the mayor, a fellow named Ben Arnold--who later became very well known as the chairman of the Arizona State Senate Appropriations Committee and a very good friend of the University of Arizona. Arnold hired me and he gave me fifty dollars a week and the Coolidge Public High School system gave me fifty dollars a week. So I made a hundred dollars a week there, and I don't think I spent thirty-seven cents through the three months, and so with that sock Jacquie and I got married in 1950.

By then I'd used up my track eligibility and Dr. Emil [L.] Larson had found where I'd competed in some dumb meet with Western New Mexico or something and he wouldn't let me run in the spring of 1951. He said I'd used up my eligibility. When I see what goes on today I think, there should be a warm spot in heaven for anybody that had to obey the kind of rules I had to obey. But that was a very shattering thing because my G.I. Bill had run out and Limey [F. Tom] Gibbings, my friend the track coach, I figured he

can't keep me on if I can't compete for him. But he solved it by talking McKale into appointing me freshman track coach. And if you'll look at the 1951 Desert you will see James McNulty with a whistle around his neck and wearing a cap and a jacket and described as the freshman track coach. So that pulled me through that period of time.

And the next thing I had to do was find work and as a guy from another state in a time when it was a buyers' market, I didn't do very well in terms of generating any job offers and I finally went to McKale. I figured he'd saved me once before--no good turn should go unpunished--maybe he'd save me again. I did. And he said, "Well, I have a friend down in Bisbee, Arizona--two of them in fact--brothers, named Jim and Martin Gentry. Would you like to practice there?" I said, "I don't know. I've never been there." "Well," he said, "I'll call them up." He called them up, and they said, "Tell him to get in his car and drive down here." It was ten o'clock in the morning and I got in the car and I drove to Bisbee, Arizona, where I had lunch with Jim Gentry. Martin Gentry by then had had to go somewhere.

August: Yes.

McNulty: And one thing led to another. They paid me three hundred dollars a month and when I got word in Boston

where I had gone after the bar because I didn't have any work and I had a wife and a kid and I didn't have any job and I was waiting to hear from the Bar. They said, "Get back out here." And I drove back out in October of 1951, and began work in Bisbee, Arizona.

August: What kind of work did you initially do at the firm?
Just about anything?

McNulty: Anything. There was, there wasn't any specialty at all in those days. There isn't a whole lot today, although we're moving in that direction and that's something about which I have mixed feelings. But I did anything. I went to the justice court and the superior court and--they had a good practice. That's the oldest law firm in Arizona.

August: Yes.

McNulty: It started in 1913 with a guy named Fred Sutter, a democrat who was appointed superior court judge of Cochise County immediately after statehood in 1912. He kept the job eight months and said, "The hell with it. It doesn't pay anything." He came downtown; started a law practice. In the twenties he hired Jim Gentry.

August: All right.

McNulty: He died in 1940 and after Martin Gentry came back from five years in the navy in World War II Jim Gentry hired him. Then the two of them hired me, and

so on. So we still have all the records of that firm going back to 1913.

August: That is significant. Do you recall your first case? The first case you worked on with Gentry or is that the kind. . . ?

McNulty: No. I think perhaps the first thing I ever did I got appointed by Judge [Frank E.] Thomas. He was the only judge for Cochise County in those days. And there was a young soldier who had shot a hog and butchered it. And, of course, Cochise County is the real West and fooling around with another man's animals is very serious stuff indeed. You know the old Texas expression, they say you give a murderer thirty days in jail and a horse thief the gas chamber. And to explain that the fellow says, "I've known a lot men needed killing, but I never knew a horse needed stealing." So that is the rationale for all that. And I, I defended this guy and the cattle people, even though it was a hog the principal was the same, were very, very much offended with all of this business. Then the complaining witness was a kind of a tough old bird named John Sala. He claimed that it was a domestic hog. But his neighbors told me that they once had been domestic hogs but that he was too frugal to feed them and they finally turned into feral hogs and just ran wild across the land.

So as part of the defense in the case I subpoenaed Sala's records of feed that he had purchased in the last year to take care of these hogs. And, of course, he had none. And the jury acquitted Private--his name was Robinson, I think. Yes. So that's my first case. And the Arizona Cattlelog, that was the journal of the Arizona Cattle Growers?

August: Yes.

McNulty: I think it's still called that today. Contained an article about the terrible miscarriage of justice and named the culprits that had contributed to it.

August: Well, during the fifties then, you are in Bisbee. How long did you stay in your practice down there?

McNulty: Well, I think I may fairly say I stayed in it until I took the oath of office in the Congress in January of 1983.

August: Alright.

McNulty: Even though I was in the State Senate and on various boards.

August: Okay. We've got to stop.

Tape off briefly then turned back on.

August: Okay. We left off talking a bit about your legal career and perhaps one of the topics that you could discuss in reflecting on your legal career is the

degree to which society is more litigious now than it was, say, when you began your legal career in 1951.

McNulty: I think we are more so as we've dropped the role of institutions in settling quarrels. And as, especially as I see it, as we've dropped organized religion from an ever-present fact of life we just seem to have decided that the courts are the place, perhaps out of desperation, but that they are the place for the resolution of questions that nobody else seems to be able to answer. For example, we have critically ill people connected to some life support systems and we see people going to court asking the judge for an order allowing us to pull the plug on the machine. And we'll see someone else going to court seeking injunction against a judge granting somebody the right to pull the plug on the machine. And we see questions involving children. These surrogate parents now. We're asking the judge to decide whether the child belongs to the male who contributed the seed that spawned the child or whether the woman that brought the embryo from embryo status to birth has some special rights in a child that was not otherwise physiologically hers. And then all these questions regarding child custody. And we're stretching the system beyond anything it was ever designed to confront and to deal with in a

judicious way. And we're going to get some peculiar decisions because it has always been true that hard cases make bad law.

Well now, people ask, "Where this apparatus was before?" I remember a very famous, though not published, trial down in Bisbee in the Elks Club when the Elks were confronted with a misbehaving member of their group and they tried to handle that in the Elks Club and that was not uncommon. I knew church organizations that did the same thing. Some of them fairly recently. That's a place where you could iron out a quarrel without involving the publicly funded judicial system.

Within the judicial system, we adopted a rough American equivalent of the English squire system in that we hired people whom we called the justices of the peace whose authority only went so far. But up to that point it was rather plenary authority and you were counting not so much on well researched, refined delicate opinions of the law as we were on plain garden variety horse sense. And when we found somebody with common sense we let him, occasionally her, be the justice of the peace and it's, it's surprising even today the degree to which a justice of the peace can bring somebody into his or her court and say now I'm ordering you to do this or that.

There could be made a good legal case for the premise that the jurisdiction really didn't go that far. But it's surprising the degree to which people confronted with that kind of an order will obey the justice of the peace. And that's probably wholesome. Of course that authority can be abused, but we have methods of checking it.

Well, then with the proliferation of lawyers, I've forgotten the number per thousand increase over the span of my thirty-five years in the business, but I guess we have perhaps a ratio that's a thousand times higher than, for example, Japan, which has a very limited role of the lawyers in public life. Now people have claimed that when you have one lawyer the law business isn't any good in a town at all. When you have two it's a good deal better and if you get up to three or four and it's enormously better. How do you explain that? Well, for the cynics it's explainable by the fact that the lawyers cause the controversy. For the dewy-eyed it's a question of injustices that would otherwise never have been righted now being righted because we have the structure to accomplish it. I suspect the truth is somewhere between those two things, that lawyers probably do contribute somewhat to the contentiousness of a society and so for all of those

reasons, our, our judicial system has strained very nearly beyond its ability to respond.

August: So even in the short time, relatively short time that you've been in the legal profession you think that we've become incredibly more litigious than . . .

McNulty: Well not incredibly, because I do believe it you see. But enormously more, yes.

August: Okay. Another important topic, and I think certainly close to you and your career, has to do with politics and the law profession.

McNulty: Yes.

August: And we can probably start with that general kind of topical area. Perhaps from your personal perspective and then maybe to speculate a bit about it.

McNulty: The extremely high correlation between legal training and political performance, especially in the legislative field, is so often overlooked. We sometimes think that we'd be better off to get lawyers out of government and particularly out of law. But that's silly, because nobody comes better grounded in fundamentals, especially to legislative work, I say that again, than a lawyer. The drafting of a law is kind of touchy business. And for the person who does not want to do anything more than superficially review the metaphysics of drawing laws, why this person would fall back on morality. Well

that's just silly. Law, in a free society, is a minimum tolerable code of social conduct, below which if you fall the rest of us, society, will invoke sanctions against you. Morality, on the other hand, though law is a floor, morality on the other hand is not a ceiling, because I perceive no limitations on morality. I don't think you can only be so moral and then not be more so. So the analogy falls down if you try to compare a ceiling to a floor. The law, and we seem to have to learn this lesson over again every generation, is only the least that you can do. And anyone who only obeys the law doesn't contribute anything to society, and no one should ever boast that he or she obeyed the law. For god sakes, that is a minimum performance, not worthy of anything other than, so what, that's what you're supposed to do. It was interesting to me yesterday that the second reading at the Roman Catholic Mass, which is the Old Testament--or perhaps it was the first reading--was from the prophet Habakkuk, and the last sentence of the reading said something about, "You claim to have done your duty and we say that amounts to nothing". It's what you are supposed to do, much in the spirit of what I am saying--though I, my lecture on this is of some years' vintage. So, when you want to tell somebody what he can't do, or she

can't do, you better have an understanding of what the law is. I had a client who once asked me, looking at the Arizona Revised Statutes, all twenty-some volumes, "Isn't there one up there that says you have to pay your bills?" Interesting enough, of course, there is no law that says you have to pay your bills. There's a law that tells me what I can do to you if you don't pay your bill, but there's no law that says you have to do it. So most are laws couched in terms of things that we forbid you to do, civil and criminal as well. And a lawyer ought to have a special sense of all that. The Congress is more than half trained in the law. Now the western states, not California, but the Rocky Mountain states tend not to have many lawyers in their legislatures. Well that, for all that the cynic on the street may think otherwise, does create problems which most of the legislatures in the Rocky Mountain states have solved by creating legislative counsels which are made up of trained lawyers, to whom the non-lawyer goes and says, "I want a law that stops this practice or that practice" and then lets the lawyer draw it.

So, writing laws has a very, in my view, distinguished symbolism about it all. Biblically the lawgivers are the people whom we most revere, beginning with Moses, and so we think of writing laws

as a task of enormous and solemn responsibility. And I'm proud of having been trained in the law and of having had that background to prepare me to work in legislatures, as I have, at both the state level in the State Senate for six years and at the federal legislature in the House of Representatives for two years. And I mean no disrespect to any other profession, but the law is the finest possible training--you can mess it up after the fact, of course--but it's the finest possible training for a career in government and most especially in legislative undertakings. And, of course, it's just the sine qua non of acting in the judiciary, even though technically under the United States Constitution you don't have to be a lawyer to be a member of the U.S. Supreme Court, but you do for all other levels of the federal bench.

August: Along the line of politics and the law profession, and more specifically politics, you were a Democrat. Were you a Democrat before undertaking your legal career. Were you a life-long Democrat or did you come to that decision later?

McNulty: My mother says that her first perceptions of my political persuasion were manifested while I was yet unborn, and I'm sure she's right.

August: Okay.

McNulty: No. I, I don't think I knew people who were Republicans until I must have been twelve or thirteen years old. I just, I didn't know--we thought of Republicans as being aliens and rich and Protestant, and not visible to any of the rest of us. We thought in Boston that if it rained on election day that the Democrats would win because we thought the Democrats were all rough-neck working people who didn't mind going out in the rain, whereas the Republicans were effete and they would not do so.

August: The same in Arizona, when you became politically active out here?

McNulty: Well, Arizona was really a different case to me. I'd say Arizona was a Confederate state in its political complexion in 1946. Yes, they were all Democrats, but they were very conservative southern-style Democrats. There were no Republicans here, either. And, of course, that was consistent with what I'd seen before, but that, that very rapidly changed. The state voted for Truman in 1948 and hasn't voted for a Democratic nominee for president since.

August: The party leadership, the Democratic party leadership, was it comprised largely of lawyers? When you became involved politically?

McNulty: Well, I'm sure I was involved almost as quickly as I got here. The great figures were Sidney [P.] Osborn

and Carl [T.] Hayden, Ernest [W.] McFarland. Of them I think only McFarland was trained in the law.

August: Now moving along this topic, the appointment of judges, in your observation, has, how has politics played a role in the appointment of judges? And could you give us some specifics?

McNulty: Well, I don't think it's played any different role today than it always did. The old expression is that a judge is a lawyer who knew a governor, was true before and true now. The state in those days when I first came here elected all its judges, Supreme Court on down and they ran for office. Well, as the state grew bigger and more sophisticated they thought that they should have judges who would stay in office subject only to being taken out of office by the so-called Missouri Plan, under which people check an answer on their ballot in response to the question, Should judge so and so be retained? Once or twice since we've had that system, I believe the people, a majority of the people, answered, No, but most of them they answered, Yes. Now in the rural counties the Superior Court Judges still run for office, because they treasured that right. I was in the state senate when we were considering the plan and the larger urban areas were willing to try it and we were willing to allow them to try it, but we weren't

willing to try it ourselves. In time, though, because of the population figure, there won't be, in another twenty years, there won't be any elections for judges at all. Frankly, I don't have that much reluctance about electing judges. They say that people will pander to the public and I think at its worst it might be that. Other people will say it's a good lesson in a little garden-variety humility for a man to go out or a woman to go out and ask you to vote for them for judge. So I don't think any real harm came from it. I do grant, though, that the urban areas wound up with some really poor choices of judges under the old elective system. But the truth still is that probably eighty to ninety percent of all the judges in Arizona today originally began their careers with a gubernatorial appointment.

August: In your career one of the major themes or developments in the past three decades has been the feminization of the Bar.

McNulty: Yes.

August: Or the increasing number of women.

McNulty: Yes.

August: Could you comment on the impact that has had, perhaps specifically and then generally?

McNulty: Well, I don't know that it's had an impact on the Bar generally. Clearly there were some misogynists who

hated to see that happen, who resented it and who thought that the world had come to an end. For my part I don't see that the Bar is different because of the fact that there are so many women practitioners. They seem to me to handle themselves as well as male lawyers, if indeed there is (chuckles) any symptom of being a male or a female lawyer. I don't think that the Bar has suddenly become a far finer place or that there was some very exceptional or unusual qualities that women brought to the practice. I think they come with their share of commitments and shortcomings to the same degree as men do. So I don't see anything other than that it's fairer now and that a woman can aspire to a legal career and expect to be successful in it and not have to knock down all the prejudices that would have been the case thirty years ago. I wouldn't claim either that there aren't still a few rocks in their path, but, by and large, the Bar has made the transition and without really bruising itself and certainly without impairing the quality of professional efforts that it offers the public.

August: The Bar as an institution in and of itself, what role has it played in the legal profession and is it changing? The institution of the Bar?

McNulty: The best way to answer that question is to say that some states had integrated Bars and some didn't.

Now, the guy in the street is going to think immediately that by a state integrated Bar I mean someone that has black and white and brown and red and yellow members. But that isn't what the expression meant twenty-five years ago. It meant, somebody has got to be a member of a state bar society or some smaller geographical unit as a condition to practicing. Now the freewheelers in the old days would have been against that. "Now, once you pass the bar away you go." And the people who were a little less sanguine about folks staying on the up and up believe we should have an integrated Bar and I am and was one of those. You've got to be a member of the State Bar of Arizona as a condition to practicing in this state. That gives us a body to look down your shoulder if you make mistakes and an ally in the Supreme Court to punish you if you don't stop making the mistakes or if the mistakes are beyond mere hand slapping.

That brings up kind of a curious situation. I suppose the majority of the members of the State Bar of Arizona would be zealously favorably disposed toward the Right-to-Work Law, which means that you can work in the Morenci Pit for Phelps-Dodge Company and not be a member of the union. Even before the strike and the decertification of the union. I

should have used another place. I'll use Sierrita Mine down here and Duval or Asarco's operation up at Hayden, any of the unionized copper operations. Why you don't have to belong to the Steelworkers to be represented by them and to be able to oblige them to present your grievance as a member of a union, without paying any dues. That's because we have a Right-to-Work Law, as do, as have a number of states, and that's why the Taft-Hartley Bill put in a provision, a federal law to allow that to occur. And clearly the people of Arizona very strongly favor the Right-to-Work Law, as they have voted on several occasions showing that. And now having said all of that, would you extend the same philosophy to the State Bar of Arizona? The integrated Bar to which you must be received, into which you must pay dues, and of which you must be a member as a condition precedent to your practicing law. The two things are philosophically irreconcilable.

So I have fun, maybe, pulling people by the ear a little bit on that subject. But I think the integrated Bar is necessary; it offers us the best hope of people policing themselves. That's a common expression that you hear. Particularly from the professions that profit so much from their particular skills, medicine and law coming immediately to mind.

They also have the capacity for great abuse of members of the public and we want measures to deal with that. The theory is that these professions will police themselves. I would not sit here tonight and tell you that that theory has always manifested itself healthily in a public way when the chips were down. But it's better than nothing at all. And it seems to me that the professions are making an effort to acquit themselves of that responsibility in an ever more positive and public-spirited way. I hope that's the case.

August: Well, good. Perhaps another theme not, perhaps, so earth shattering, but what role have fraternal and professional associations played in your career? In your legal career. I noticed down here, you're a member of the Arizona Bar Foundation, the American Bar Association, the Pima County Bar Association. If you could comment briefly on those.

McNulty: I guess I'd have to say they haven't played a very significant part in my life. I belong to the American Bar Association out of a sense of duty and the Pima County Bar Association as well. I treasure the ability to practice law and to be a member of the fraternity that's allowed to do that and my membership in those things is just a method of expressing in both a financial and moral way my

support of their general goals and objectives. I go to Bar meetings and Bar conventions and Bar seminars, but I do that partly for social purposes and partly for trying to keep myself halfway decently updated on developments and new developments in the law.

August: Given the press of time, and perhaps the reason we're doing this tonight, I think we'd be remiss if we didn't cover a little bit more. If we can segue from topical material to, again, biographical material, you served in the State Legislature of Arizona. . .

McNulty: I did.

August: . . . for six years. When were you first elected?

McNulty: I was elected in 1968, when a fellow named Dan [S.] Kitchel, who had been a state senator from Bisbee, came to me and said he was not running anymore and I was his personal choice and that if I ran he would never say that and that his support for me would be very quiet, because he didn't believe in people passing along some honor like this; that he came to me because he admired the way I felt about things, my political philosophy, and he hoped that I would succeed him but that I couldn't expect much in the way of overt help from him. I felt that way about him. I thought Dan Kitchel was a great man, and I still think it.

So I ran in 1968 and I was elected very handily

from a district that included Graham, Greenlee, parts of Graham, Greenlee, Cochise, perhaps then even Santa Cruz County. I ran again in 1970, mainly because I'd been chosen by the Eagle Institute as one of twenty-five members of state houses of representatives across America that was supposed to be talented--that was the claim anyway--and they flew us to Florida for a week in which we concentrated under the direction of some great, well-known political figures on problems that arise in government and methods of solving them. That was a very interesting experience, and Eagle Institute has traditionally brought together some extremely competent public elected officials.

In 1972 I didn't run. The Republicans put ten incumbent Democratic state senators into five districts, from each of which only one could be elected. And I'd had enough and I asked my friend Charles Awalt from Safford, he and I had been combined, to run for the job and I told him I'd support him. He wanted to do it the other way around, but I won the argument and he ran. And in a very sad turn of events he was dead by, I think, April or May of 1973, and the boards of supervisors of Greenlee, Graham and Cochise County voted that I should succeed him and finish his term. So I missed

by four, five months, I guess, of serving six years in the state Senate.

August: Your primary constituency there, mining? Ranching?

McNulty: Yes. Yes, mining. It would have been Bisbee and Douglas and Safford, Clifton and Morenci. But you see in three terms I had three entirely different districts. The guys--well, really I'm not being too partisan--the Republicans kept playing games with the one-man-one-vote rule. So I was one of two senators from a district that was Santa Cruz, Cochise, Graham, Greenlee, maybe even part of Pima one term. The next term I had another term, another district which ended right outside my house and included the Arizona Sonora Desert Museum. Now you had to work pretty hard to put the City of Bisbee and the Arizona Sonora Desert Museum in the same district, but they did. And I used to kid about driving from Bisbee to the Tucson Estates and the Museum, that I drove in and out of my district four times before I arrived. Then the third time it was Cochise, Graham and Greenlee Counties. So mining, yes, but ranching and even part of the urban, suburban parts of Tucson were in districts that I represented at one time or another.

August: What was your relationship with the governor or governors at the time? Before we leave your senate career.

McNulty: The governor was Jack Williams who had nothing but kind words for me and vice versa. I very strongly disagreed with most of his political judgements. But I haven't been a partisan person by and large and I have tried to conduct myself like a professional legislator and to examine issues and to criticize them just as harshly as they deserve. But never to assume that the person advancing the issue and the issue were the same thing. And so I think when I was chosen in 1970 as the most liked and most respected and most able member of the Arizona State Senate, in a senate that was dominated by the Republicans, that's some evidence that I succeeded in that goal.

Tape 2, Side 1

August: Any piece of legislation from your State Senate career that is most pleasing?

McNulty: I was on the conference committee of what was then the state's strongest anti-pollution law--in, I think, 1970 or perhaps 1971--and that was really a landmark piece of legislation.

August: Also you served as a member of the Arizona Board of Regents.

McNulty: I did.

August: What period was that and . . .

McNulty: From 1980 to 1983, that was an enormous amount of work but a great experience. Especially for two reasons. One was that I was appointed by President Tom Chandler as chairman of the Intercollegiate Athletic Committee where we started a program to make everyone believe that we were sick and tired of wretched things happening in the athletic programs at all three schools, but particularly University of Arizona and Arizona State University. And I think that from that day forward the three schools have had fine records and pretty decent people running the programs. We also made them keep a running account of the grade averages of the scholarship athletes and to supply us with advice as to the graduation ratio of these scholarship athletes because we thought, if they're not getting a degree on a regular basis there has to be some reason for that. Well, all the schools put in tutoring programs and monitoring in a very vigorous way and the N.C.A.A. has now moved in that direction, but we were doing it before they were. The second thing was to serve as chairman of the selection committee for a new president at the University of Arizona and to serve as a member of the selection committee for a new president for Arizona State University. So I was in on the selection of both President Nelson and President [Henry] Koffler

and that was a great experience.

August: Would you care to elaborate in any way on either of those appointments?

McNulty: The process was very time consuming. I guess we reviewed a couple of hundred applications in each instance and we refined those down to a hundred and then perhaps forty-five and finally we got down to the point where we interviewed perhaps fifteen people and out of that we re-interviewed another five people and then we thrashed around like you wouldn't believe trying to decide on the five. But the Board of Regents got the five names and chose one of the five. Yes, it was immensely interesting and the enormous talent of the people that applied was a great reinforcer of my admiration for the University of Arizona. Not uncritical, but admiring.

August: Finally, we should touch on your period as Congressman from Arizona. What prompted you in the first place to run?

McNulty: I had run for United States Senate in 1980.

August: Yes.

McNulty: So I had big ideas from way back. When the new gerrymandering came along in 1981, to be in place for the elections of 1982, it was clear to me there was a chance for a Democrat in Congressional District 5, which had been drawn by a Tucson Republican, who was

chairman of the Arizona State Senate Judiciary Committee. His predecessor ten years ago had done the same thing. So these guys, quite legally, had defined districts with computers and machines as very sophisticated work in which they think they can win. Well, I was stubborn enough to think maybe I could win, and in a non-presidential year. So I announced, I guess about a week after my father died. My mother had died the year before. And had he lived I might not have done it. But when he passed away I just decided now was the time, and the last day of March 1982, only four months away from the election, I said, "Here I go." I had no money and no manager and no office space or anything else, but neither did anybody else so that made it fair.

August: Did you consult closely with the head of the, with the chairman of the Democratic Committee? It must have been Sam [Samuel P.] Goddard at the time.

McNulty: It was. Oh, sure. I, I had been close to the party all those years and still am, and so I communicated my resolve. But just shortly before I made the announcement, on a Monday at the Democrats of Greater Tucson over here at the, what was then the Levy's Department Store. And the next day I began.

August: You defeated Jim [James T.] Kolbe that time?

McNulty: I did.

August: A close election?

McNulty: Just twenty-five hundred votes.

August: Yes. Well, we'll get specific. Your two years in office, any general impressions at this point?

McNulty: Most exciting job I ever had. Big calls, important calls.

August: Okay.

McNulty: Central America. Nicaragua. MX's and general policies of war or peace. Spending money. Priorities. National, global consequences. Important things. And it was most exciting.

August: Which committees were you on?

McNulty: The Interior Committee and the Public Works Committee.

August: Interior, therefore--What problems did you work on which affected Arizona?

McNulty: We had the bill to allow the replacement of the turbines in Grand Canyon Dam for much larger turbines with a far greater capacity. Millions and millions of dollars worth of additional electricity. And not only the decision to replace those turbines but the decision as to where that additional electricity was going to flow because it was up for grabs. And we were able to strike an excellent deal for the state of Arizona, which was justifiable in my opinion, and did so.

August: The Central Arizona Project?

McNulty: Was principally a matter of appearing regularly before the Appropriations Subcommittee that controlled interior projects. But that really was just a kind of a performance. The governor would fly in and the senators and the congressmen would go down there and do a little ritual performance. In fact, Congressman [Morris K.] Udall and the chairman of that committee, Congressman Bevill, they made those decisions quietly over lunch one day and it was pretty much pro forma after that.

August: Were you working closely, during your two years, with Congressman Udall?

McNulty: Well, sure. He was chairman of the Interior Department [Committee] and I have one particularly memorable moment on the floor of the House of Representatives when this bill dealing with this power for Hoover Dam was under assault from some of the congress, congressional members from the big cities. And when all voting had expired the vote was 198, Yes, 198 votes No, which meant it had failed. And Congressman Udall--he doesn't, he can't run around that chamber as well as he used to because of the Parkinson's [disease]--he and I were sitting there together, and he looked up at the board where every member of Congress's name is shown with a red

light or a green light indicating how you have voted and waved at the man who was presiding over the chamber, of the Committee of the Whole, meaning don't announce the vote. The minute it's announced it's all over. And he looked over those names and he said, "Is Bob Garcia on the floor?" Congressman Robert Garcia, he's a Puerto Rican; he represents part of the Bronx from New York City. I looked around and said, "Yes." He said, "Get him quick." And I ran up and said, "Bob, Mo wants you." And he said, "Oh, yes." And he just came sprinting down. He got to Congressman Udall and the congressman said, "Bob, I see you voted no on this measure. Is it something about which you have a real conviction? Or is it something about which you could change your mind?" And Congressman Garcia said, "It is something about which I can change my mind." And Mo said, "I'd appreciate it very much." Garcia ran down into the well, where there are little cards that you can pick up, sign them, and erase your previous vote. And he picked up a green card and signed it and that was put into the machine. It cancelled out the red light, the No vote, and changed the 198 to 198 into a 199-197 Yes. And Congressman Udall kind of waved at the fellow who was chairing the Committee of the Whole and the guy hit the gavel down and shouted, "By your

vote of 199 to 197 you have passed H.R.2354."

August: Fascinating story.

McNulty: Yes, indeed. And the consequences of that anyway you want to measure them, kilowatts or dollars, the future of Arizona, Southern California, it's almost beyond any kind of a mathematical judgement. But it was enormously important!

August: Perhaps one other general statement, given time constraints. You were in Congress as a Democrat during, really perhaps, the height of the Reagan Revolution. One of the more conservative political eras in our . . .

McNulty: Yes.

August: . . . history of the Twentieth Century. Any general comments about that and how you represented your constituents in that context?

McNulty: Well I tried to represent them as best I knew how. That's always the most vague kind of a question and it calls on really subjective, almost purely subjective analyses and conclusions and the like. But my general disposition was to refrain from spending money recklessly, to keep a strong defense without begging ourselves, to have a taxing system that was reasonably fair, to have a foreign policy that was decently enlightened, and to have some sense of compassion for those who had the very least in our

society. And I've often said that the bulk of the questions that are asked around this chamber are, How far apart are you willing to allow the poles of society to become? In my view they're as far or further than the society can wholesomely tolerate. And so I was not willing to let the distance between the two grow greater. In the meantime, of course, the current administration has convinced middle class America that it is supporting a whole race of malingerers and scofflaws. We have fed the people the idea that they're being discriminated against by the ne'er-do-wells. And out of that has come a very utilitarian, and in my view, ultimately unhealthy kind of a political atmosphere, one which defines government as the enemy.

It has been fiscally the most reckless six years in the history of the nation. We have doubled our national debt in five-and-a-half years. It took us two hundred years to create the first trillion dollars of debt; it took us five-and-a-half years to create the next trillion dollars worth of debt, and before President Reagan leaves office, we'll be perhaps two-and-a-half trillion dollars in debt. Meanwhile we will have spent money for the Defense Department at a silly rate. More money than the Defense Department could spend intelligently. And

there've been so many awful examples of that sort of thing. It isn't because the Defense Department is run by crooks; it's that in pumping a billion dollars a day into that defense system--which is very nearly what we do--it is beyond the capacity of the system to absorb that kind of a monetary infusion in a sensible, useful way.

So, for all of those reasons, I voted against the MX; I am very uneasy about our infatuation with nuclear instruments of war; I don't believe our Central American policies are sensible. In fact, I think the most recent hundred million dollars of my money sent to the Contras wastes my money, doesn't change what will essentially be a stalemate down there other than to make it a bloodier stalemate. I think if people can work they ought to work, but having said that I'm going to think long and hard about discontinuing food programs for children and hot lunches in the poorest parts of this country or our attempts to aid in education. There are lots of problems, but we're not going to solve them by being angry at the institutions that are at hand to deal with them, however imperfect they are. So that's the kind of disposition, generally, I brought to the task. And it was not found to be sufficiently appealing to tide me through a 1984 election which I

lost by 6000 votes.

August: Did you have any premonition when you were running for re-election that this wave . . .

McNulty: Oh yes.

August: . . . or this--or that you were . . .

McNulty: Oh yes. Yes. I, we had tracking polls right along. And it was one or two points week after week after week. And then I was portrayed as being indifferent to the rape and murder of a little newspaper girl in one of the Republican National Committee advertisements. And I was portrayed as being "always on the side of the criminal" in the language of my opponent's brochures. And I was running when a very popular President was also running. He scored sixty-three or sixty-four percent of the vote while Mr. Mondale was scoring thirty-seven percent. Our race was very nearly a fifty-fifty race. So, I made up a lot of that ground, but it was a hard thing to overcome.

August: Perhaps this has already been published, but is there any future of you running again? Either for congress or a public office?

McNulty: (laughs) Who knows? I'm healthy and no less crazy than I was two, four and six years ago. And if an opportunity comes along, I might well look at it. I like the work very much. And I was a good

congressman. I don't know how to say that in a sufficiently humble way, so I won't bother. But I took the system for what it was and wasn't angry about that. I worked very hard; I attended committee meetings faithfully. I read and informed myself as fully as possible. I was the only freshman in the twentieth century to over-ride the president on a bill dealing with water research efforts at land-grant colleges.

August: That is an important point. Could elaborate on that since we have about a few minutes left.

McNulty: The administration wanted to kill the program. The land-grant schools wanted to continue it. It passed the House by a voice vote which gives you an idea how little controversial it was there. It passed the Senate by big numbers and we never had an inkling that it was going to be turned down, but David Stockman wrote a letter to the President and darned if he didn't veto it. So I went to the Senate sponsor of the bill, Senator James Abdnor of South Dakota, asked him what he was going to do and he said, loyal Republican though he was, he just simply had no choice but to override the president. He just didn't want to do it in an ugly way or a mean way. That's okay with me, I didn't either. Well, we conferred regularly and I talked to the leadership in

the House, which didn't believe me I might say. Thought that was really kind of silly, a guy in my position, been on board thirteen months. But one day Senator Abdnor said, "Tomorrow morning." And by golly he did it. And I ran and broke in on a leadership meeting. Told them about it. And Jim [James] Wright said, "Well, maybe we can do it tomorrow." I had some very excellent help, Dr. John [K.] Crow, a member of the faculty here at the University of Arizona had researched previous override attempts, and said, "You know, it's peculiar to me, but any time there's an override, both bodies do it within a very short period of one another." So I asked Mr. Wright to reconsider about doing it right away. And he said, Well, he'd thing about it. And then the Speaker of the House said, "There'll be no thinking to it. We're going on the floor at eleven o'clock and do it."

We found out that the White House had started a telephone blitz at nine o'clock that morning, trying to get the Republicans in line, because had they all voted against overriding the veto the bill would have been dead. Well, we were fortunate in having a number of Republican senators from the West particularly with strong ties to the local land grant schools and oh, I don't know, Colorado and New Mexico

and so on. And we ran around and carried the vote. We got 241 out of 242 Democrats. And I felt very good about that. You've done a hell of a job when you get that kind of a turnout. We got 69 Republicans voting with us to override and 80 voting to support the veto. So we came within five or six people of splitting right down the middle with the Republicans. And, of course, that carried the day in an enormous way. And that was very satisfying.

August: Well, might as well finish up then with--That's it?
Okay. Thanks.

McNulty: Okay.

August: All right. Thank you.

End of interview.

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