

ROBERT S.TULLAR INTERVIEW

Kelly: Good morning. This is Virginia Kelly. I'm in the home of Judge Robert Tullar. This is January 28, 1992. We're here to do an oral history interview for the Evo DeConcini Oral History Project through the Arizona Historical Society. With me, running the taping equipment, is Pablo Jusem who works for the Historical Society. Good morning, Judge.

Tullar: Good morning.

Kelly: I understand, Judge, from looking over some news clippings at the time you were appointed judge, that you came to Tucson in the 1930's from Wisconsin. Is that right?

Tullar: Actually I came from Pennsylvania, but I was born and started in Wisconsin.

Kelly: In Waukesha?

Tullar: I was born in Waukesha.

Kelly: And what day was that that you were born, Judge?

Tullar: September 7, 1914.

Kelly: Did you live there most of your childhood?

Tullar: No. My parents died when I was young and I moved to suburban Philadelphia and went to live with my uncle who was my father's brother.

Kelly: Was he in the legal field?

Tullar: No. He was an engineer.

Kelly: I also understand that you have a long, you were a fourth generation lawyer.

Tullar: Yes. My father and my grandfather and a great-grandfather were all lawyers. They were in Wisconsin.

Kelly: Your father was a district attorney?

Tullar: Yes.

Kelly: In the public sector. Did he ever work in private practice?

Tullar: Yes. You did both in those days, in that part of the world at least.

Kelly: And then your grandfather was a judge?

Tullar: He was a judge for a while, but he was mostly a lawyer.

Kelly: And your great-grandfather also was an attorney?

Tullar: He was an attorney.

Kelly: Didn't he serve in the marshall's service?

Tullar: I think he was the United States Marshall

_____.

Kelly: Way back when.

Tullar: Way back when. I didn't, needless to say, know him.

Kelly: About what year did you move to Pennsylvania?

Tullar: In 1922.

Kelly: In 1922, so you were then about eight years old?

Tullar: Seven.

Kelly: Seven years old. Then you went to grade school and high school in Pennsylvania?

Tullar: Yes.

Kelly: And eventually you went on to college. Where was that?

Tullar: At Lafayette College which is in Easton, Pennsylvania.

Kelly: How did you make the choice to go to Lafayette and what did you study there?

Tullar: Well, I majored in English and also had a major in law.

I had planned to go on to law school but I broke down with tuberculosis and that's why I came out here eventually.

Kelly: Did you come out here then for your health and after you were here decide to go to law school?

Tullar: Yes.

Kelly: What did you do when you first came out to Arizona?

Tullar: I spent some years in a sanitorium lying on my back. In those days they didn't have any drugs. The only cure for my disease was bed rest.

Kelly: Was that here in Tucson, Judge?

Tullar: Yes.

Kelly: Do you remember where that was?

Tullar: Yes. It was at a place called Saint Luke's in the Desert, which is at First Avenue and Adams Street. I

think it's still there. It may be used as a home for elderly women or something else now.

Kelly: That's right. That is what it's used for now.

Tullar: I spent there a couple of years and then moved to a home that another patient and I rented, out on Blacklidge Drive in Tucson, where we eventually opened a poultry business, basically eggs. I sold eggs. So I put myself through law school selling eggs.

Kelly: Is that right? Did you have any family here at that time, Judge?

Tullar: No. No. I came out here, well, I thought I was going to die because I was so severely ill. But I didn't and eventually I got back on my feet and went to law school.

Kelly: Do you remember how old you were when you came out here?

Tullar: Well, yes, I was twenty-two or twenty-three when I came out here.

Kelly: How long did it take for you to get back on your feet?

Tullar: Well, there's no way I can say how long it took because it was a gradual thing, but as I say, I went back to law school eight years later. In 1943 I started law school.

Kelly: At that time were you feeling well?

Tullar: Oh, yes.

Kelly: Do you recall any of the people who were in law school with you then?

Tullar: Oh, yes.

Kelly: Who would we still recognize in the community?

Tullar: Well, the outstanding member of my class even then was Tom [Thomas] Chandler. Another one who became well known was Robert Emmet Clark who is a distinguished professor at the University of New Mexico Law School and also taught here for some years. There were two females in the class, neither of which, to my knowledge, ever practiced law.

Kelly: Do you remember who they were?

Tullar: One was named Helen Standring and the other was named Noreen Myover. Noreen married and had a whole raft of kids. I don't know whatever happened to Helen Standring.

Kelly: Was it considered unusual to have women in law school at that time?

Tullar: Yes, relatively so.

Kelly: Did you notice what you would consider any different treatment of them then . . .

Tullar: No.

Kelly: . . . among the students or professors?

Tullar: No, they didn't really, that I could see. They had to take the same exams and I assume were graded on the same scale. Neither one of them distinguished herself, but

they both passed and passed the law school and got their legal degrees and also passed the bar and became lawyers.

Kelly: Do you have any specific memories of Tom Chandler or Robert Emmet Clark? Any anecdotes from class or studying or anything like that?

Tullar: Not really. I don't think of anything at the moment.

Kelly: Were there any professors that you particularly remember from law school?

Tullar: The dean of the law school at that time was J. Byron McCormick who later became president [of the University of Arizona] and then even later went back to teaching law which was what he liked and preferred to do.

Kelly: Did he have a favorite area of the law?

Tullar: Well he taught contracts and constitutional law but I think, yes, his favorite was contractual law. He liked to give us problems involving contracts that always had large sums of money. He never dealt in hypothetical contracts with less than several million dollars.

Kelly: Was he what you considered a tough professor?

Tullar: Yes, and a good one, a fair one. He was probably, the other professors at that time--remember, when I started law school in 1943 my class had eight students of which, as I said, two were girls and some of the rest of us

never got very far, but the percentage that became lawyers was probably higher than most.

Kelly: Did your class grow from the time you entered until when you graduated?

Tullar: In 1945 the students who had been in law school when they went to war returned and, yes, my third year of law school had quite a large class. Many of them were students who had gotten their first two years in before the war or during the early part of the war and then had gone into service and now were back finishing up. So yes. People that fit category were, for instance, John [F.] Molloy, Frank Watkins, Hamilton [R.] Catlin, who had been rather severely injured and showed it at that time, but he has survived very nicely, had a good life.

Kelly: I notice that you were in law school over a period of time and you were working, as you said, during that time.

Tullar: Well, not really . . .

Kelly: Sold some eggs.

Tullar: Well, I entered law school in the fall of 1943 and was graduated in the spring of 1946. That's, you know, the . . .

Kelly: I see.

Tullar: . . . the minimum three years.

Kelly: Okay, I understand.

Tullar: But during that time I did raise chickens and sell eggs.

I used to bring--the law school in those days was on the second floor of what later was the, I think it became a library, I'm now sure. It was the smaller building immediately east of the museum, just inside the main entrance. There were classrooms downstairs and the library study area was upstairs mostly. So the first thing you did in the morning was climb a rather long flight of steps. I used to bring my eggs in in egg cartons, a dozen, and each professor and those married students that bought them had his own step and I'd put his carton of eggs on his particular step and they all knew without looking to see the name on the carton, they that was their carton of eggs. As I say, that plus additional eggs that I sold to civilians. . . .

Kelly: About how many chickens did you have to produce the eggs you needed?

Tullar: Well I had, we had as many as three hundred laying hens at one time or another and then always had young ones coming on.

Kelly: This was out on Blacklidge?

Tullar: This was out on Blacklidge Drive which then was out in the country.

Kelly: Do you remember any of your egg customers names from that time?

Tullar: Well, there were a few. The Mick _____ family was one and their daughter Sarah became a deputy clerk for Judge [J.] Mercer Johnson and subsequently married him and they were married happily for many years. Another one was the Slutes family. Tom [D. Thompson] Slutes was the head of the firm of Slutes, Browning and others.

Kelly: Is that now the Tom Slutes in Slutes, Sakrison?

Tullar: Yes. The same Slutes. And there were, I could probably think of others if I had to.

Kelly: I also noted that you had an interest in mining, in mining law and also in exploring or looking at old mines?

Tullar: Yes.

Kelly: How long did that interest carry on?

Tullar: Well while I was still in law school I was working as a clerk for Fred [W.] Fickett, who was a quite successful lawyer and he had some clients who had interests in mines and one of them was called the Oro Blanco Mine which was down on the border south of what is known as Montana Peak, Montaña really, but Montana Peak. I guess that would be translated mountain mountain. (laughter)
So over the Labor Day weekend in 1945 the fellow who

had the interest in that mine and went down there and it was, the place had been really, no one had been in there all through the war and it was very rugged and wild. I became fascinated with it.

He worked down there for a while and produced gold. Not enough to make it ever become a profitable venture but enough so that I would drive down there every third or fourth week and come back with one or two cakes which were, not pure gold but which were gold cakes. I'd put them in a cigar box and send them by railway express, for some reason they wouldn't take them parcel post, to the mint in San Francisco.

I recall my enjoyment when I'd put this wrapped cigar box on the counter at the express office and it was very heavy. It didn't look heavy. The clerk who would pick it up invariably would be surprised. He'd pick it up and discover it took more than just a small effort to lift it. His stock question naturally would be, "What in the hell is in that?" I enjoyed saying rather nonchalantly, "Gold." (laughter) So that was, you might say, is how I got interested, the Oro Blanco and other mines.

There is in one of those mines a place I wouldn't dream of going today, but I had to crawl under through a very

small hole on my belly and walked what seemed like a mile or more underground. When we came finally to a caved portion where we could go no farther, with a carbide lantern, I wrote my name and the date on the wall. I doubt whether anyone is ever going to see that, but I have wondered all down through the years if maybe somebody wouldn't see it and would write me or call me and tell me. But no one ever has and I suspect no one ever will.

Kelly: Was this down in the Oro Blanco Mine here?

Tullar: This was down in the Oro Blanco Mining District and it would be right on the border. Whether it would be under the border and actually in Mexico or in the United States, I have no idea, but probably in the United States.

Kelly: We can make a note right here in the interview that if anyone reading this ever sees Judge Tullar's name down there he'd appreciate a phone call. Tell them that you saw it, you were there and you saw it. Did you ever go up and explore, like, have any interest in the Lost Dutchman Mine in the Superstitions [Mountains]?

Tullar: No, no. To me that's all history, or fiction, fictional history.

Kelly: Let's move on now to the time where you actually started

practicing law. Maybe move to where you graduated from law school and prepared for the bar exam. Do you remember doing in particular to prepare for the exam?

Tullar: Well, one of our professors, Chester [H.] Smith, had a cram course where you met for three hours, twice a day, I guess, maybe it was two-and-a-half, and he charged us a hundred dollars to take it. Most of us really felt we didn't need to take it, but we were afraid not to.

Kelly: I think it's still the same today, sir.

Tullar: So, yes, we took that course. After we finished the morning session and before the late afternoon session, in the heat of the day, Tom Chandler and I played golf every day for the six weeks or however long that course took. We played where it was so hot that if they turned the sprinklers it was a pleasant pleasure to just walk through the sprinkler. So that would have been in the spring and early summer of 1946.

Kelly: Were you supposed to be studying during this time when you were playing golf?

Tullar: Well, that was your option to study. And we all did a certain amount of it, but as I say, it really wasn't necessary. Once you've--we had just finished three intensive years of law school and we probably knew more law than we would ever know again. I'm sure we did. So

while there was a certain amount of cramming for the bar exam, why you couldn't do a lot of cramming. At least I couldn't.

Kelly: Was it all an essay exam at that time?

Tullar: I think so. I don't remember that there was any other kind of questions.

Kelly: And did it last over a period of days?

Tullar: Yes.

Kelly: Do you remember how many?

Tullar: Actually I hadn't thought of it, it may have been two but my memory suggests it might have been three days. Many of the students, I recall, would use up every minute of the allotted time and still not finish. I would always finish early and soon as I was finished I'd turn in my paper and walk out because I got itchy just sitting there. But Tom Chandler was always out ahead of me.

In law school I got, they gave out, I don't know whether they still do or not, but they gave out books in various subjects. If you had the top grade in such and such a course the publishing company gave you a book. I won the book in something called common law pleading. The reason for that was I had studied pre-law back east and had learned some of these old English terms that no one

else out here had ever heard of. And consequently I won that book. Tom Chandler won every other book there was to win while I was in law school. He was always first in everything until a bright young lawyer came over here from New Mexico by the name of Richard Bean who practiced, and as far as I know still does, in Roswell, I was always second. But when Bean got here he was better than I was. But I was always behind Tom Chandler.

Kelly: When you finally started your law firm he even put his name first. (laughs)

Tullar: Well, I went to work for Fred Fickett as a student and stayed on with him for several years and then left him and opened my own practice. For one year I was a sole practitioner. Then because I was a Republican and a lawyer by the name of Richard Chambers, Dick Chambers was Mister Republican in an area where there were very few of us, I was appointed judge when we got a Republican governor, Howard Pyle.

Howard Pyle was a radio announcer for Phoenix station KTAR and he went to the South Seas during the war and had a broadcast that went out not only over KTAR but every, well there was Yuma outlet and a Tucson outlet and others. Every mother who had a son in the service

turned on his broadcast every late afternoon because he used the names of as many soldiers who lived in Arizona as he could possibly scrape up. So everyone listened to see and would often hear about her son and what he was doing.

When he came back here in a state that had no Republicans to speak of, the Democrats nominated a woman for governor. The old cattlemen and ranchers weren't about to vote for a woman, so even though they were all Democrats they voted for Howard Pyle. All the women did too, so he became governor. Since I was a Republican and I had run for judge, not with any idea of being elected but just to get my name out for some publicity and because Chambers had asked me to, I was appointed. So I was a political accident. And that's how I became a judge. That was in 1951.

Kelly: After you were appointed by Governor Pyle apparently you stood for election a couple of times after that.

Tullar: I was elected in 1952 and re-elected in 1956 and resigned at the end of 1958 to go into private practice.

Kelly: Backing up to when you worked for Fred Fickett, what kind of a practice did you have then?

Tullar: Very general. Anything that came in the door. One of the cases we had involved the Deseret Motel, which was

on North Stone just south of Drachman. A young blond nurse from the east had brought her mother who had arthritis out here and they stayed at that motel for the critical two or three weeks where this lawsuit arose. She became my star witness. As it happened, although Fred Fickett got the case I handled it and tried it. The bailiff told me later that when she was on the stand she was such a favorable witness for our clients that there were a couple of women sitting in the audience and one of them said to the other that, "That girl must be very friendly with the clients." And the other woman said, "No, she must be friendly with the lawyer." Well we won the case and the people who came from Kansas City were returning there and on the last day of their stay in Tucson, the woman came in and said she was having a farewell party at their house that night and would I please come by. I said, "Well thank you very much but I don't do that. I don't go to those things." And we said our good-bye. She was out the door, it was just within inches of being closed, when I said, "Is that Alice Freeze going to be there?" That was the blond girl. She said, "Oh, yes, she'll be there." So I said, "I'll stop by." And you just met Alice Freeze when you came in a little while

ago.

Kelly: She was the pretty blond girl and the good witness?

Tullar: She was the pretty blond girl and the good witness. A year or two later I was sitting at a Bar luncheon next to Judge William [G.] Hall who was the firm of Hall, Catlin and Molloy in those days. Hall had been a superior court judge and when he retired, a lawyer. He recalled this case, he was sitting next to me and he recalled this case. He said to me, "You know what won that case for you was that blond girl you had as a witness." He said, "Whatever became of her?" I said, "I married her." He said, "Well you should. You get a witness like that you shouldn't let them get away from you." I said, "I didn't." (laughter)

Kelly: What kind of a case was it, Judge?

Tullar: It involved employment of the, our clients had been employed on a indefinite basis to operate the motel. The owners, who were the defendants, came back and evicted them because they discovered they didn't like travelling around doing nothing after all. They had gotten bored running that place but they got even more bored not running it. So they came back and kicked our people out and took over. As it happened our people had sold their business in Kansas City and sold their home

and torn up all their roots to come out here, so they had a pretty good case. And that's the story.

Kelly: Thank you for sharing that with us. The way that judges are appointed, selected now is a lot different from when you became a judge. Do you have any thoughts on the merit selection process as it works today?

Tullar: Well, theoretically, we didn't get very good judges in the old days because it had to be a friend or a political connection with the political party, which was at that particular time purely Democratic, except as I say Howard Pyle was a Republican and there were some more later. I think the merit system has got to be better and I think by and large we get pretty good judges.

Kelly: Does it still seem like a fairly political process to you?

Tullar: Yes. It's always going to have a lot of politics in it. There's no way out of that. But whether it's, how much politics is in it I don't know, but they couldn't have named a better person or a better lawyer to the [Arizona] Supreme Court than Tom [Thomas A.] Zlaket. Tom has the smartest legal mind of anyone actively practicing law, with again the possible exception of Tom Chandler, that I know. And he's also as fine a fellow

as I will ever know. So there the process has worked beautifully.

And then a couple of other cases where maybe it hasn't been quite so fine. I wasn't that enthusiastic about Stanley [G.] Feldman although he has turned out to be a pretty good Supreme Court justice in my opinion. And I think his appointment has turned out to be a pretty good one.

But Tom Zlaket I think will be a great one.

Kelly: When you were practicing you were active in the Bar Associations, is that right?

Tullar: No, not really.

Kelly: Did you attend meetings?

Tullar: Well, yes I attended the meetings and I think that. . . .

Kelly: Do you see any differences now in what the Bar is doing?

Tullar: Well, of course it's so much larger. After I left the bench I kind of stopped going to the monthly meetings and don't really know. I don't think I have any comments.

Kelly: Once you returned to the practice of law, having been a judge, how was it different from before?

Tullar: I got more business. Having been a judge was a good--people think that because you're an ex-judge

you're either a better lawyer or have an in with the powers that be so that whatever they want, whatever their aim is, you can do a better job for them, which I found was absolutely not true, but I didn't spend too much time telling people they were wrong. Because I thought I could do them a good job and looking back I think I, I think I was a good lawyer. Not a great one but a good one.

Kelly: You certainly, from the news articles I read, developed a reputation as a judge. One of the comments I read was that you called a "humanist with rare common sense judgment."

Tullar: That's pretty praise-worthy isn't it?

Kelly: I think that one was in relation to a case where a young man was wanting to divorce his wife and leave the children and you had a few things to say to him about the wisdom of that, or lack of wisdom of that course of action.

Tullar: Yes, I, over the advice of other judges I used to write memorandum opinions. I thought if I expressed an opinion I ought to tell people why. So I wrote a memorandum opinion about why I wouldn't grant this particular divorce, there being children involved. It was picked up by a then very well known columnist who

had a home in Tucson, by the name of Westbrook Pegler. Pegler's column appeared in, I believe, three hundred or more newspapers all over the country. He picked up this opinion of mine and used it almost verbatim in one of his columns. I have somewhere a whole envelope, one of these big red envelopes, full of mail I got from all over the country.

Kelly: For the purpose of the interview, could you recount what your opinion was on that case, just generally?

Tullar: Well, this couple who were young and healthy and really, if they were unhappy their unhappiness was so minor compared to what they would someday experience if they lived long enough and stayed married, that I just didn't think they had any grounds at all for divorce. And even in that day and age when you really almost needed no grounds, if they wanted a divorce we gave it to them, and if they hadn't had children I would have given them a divorce without any argument. But I didn't think there was grounds for divorce so I refused it. Incidentally, another judge a month or two later gave them a divorce. Thought it was showboating on my part, I guess. I wrote this opinion and, as I say, it would have been just another opinion buried in the files, which was what I thought it would be and that suited me,

except that Mr. Pegler picked it up and that became, it was even published, or part of it, in the American Bar Journal.

Kelly: Can you recall the comments you made in denying the divorce?

Tullar: No, I don't, except--no, I don't recall them now. Nothing great, to be sure. I can assure you there was nothing great.

Kelly: You tried a lot of cases over the years as a trial lawyer, eventually becoming a member of the American Trial Lawyers, the College of Trial Lawyers. Do you have any humorous jury experiences or interesting stories that arose out of those trials?

Tullar: Not really. Morris [K.] Udall in his early days as a trial lawyer was strictly a plaintiff's lawyer, and as I came off the bench and went to work in the Chandler firm in 1959 I was strictly a defense lawyer. He and I tried a number of cases together.

One of the early ones, I don't recall anything about the facts of the case except that he got a pretty good verdict and I was quite unhappy. But during the trial of the case he, who had a good wit, was quite humorous, he told a number of funny stories in the course of questioning his witnesses and had the jury chuckling

along. I responded as best I could and I was very happy with the whole thing until the verdict came in, at which time I was prepared to throw myself out the second-story window and land on my head. That's how bad I felt about the verdict. As he was leaving the courtroom and I'm sitting at my table with my head down the foreman of the jury leans over and says to me, "We certainly enjoyed your clever cracks and humorous utterances." That man never knew how close he came to being thrown out the window himself.

But it was a pleasure trying cases with Mo Udall. I'm sorry he got bitten by the political bug because he was a good trial lawyer and it was fun trying them with him. One that maybe is also, I guess, humorous but in a funny way. As everyone knows, Mo had a glass eye. No one knew it in those days and I don't know how many people do now, but I also have one, but no one knew it then. I didn't tell anybody and Mo's was famous. We tried a case where I was defending a Tucson police officer who had collided with the plaintiff in an intersection. The plaintiff's injury was the loss of an eye. Mo had the plaintiff testifying about how he had to buy these new eyes every year and how much they cost. He called them glass eyes. But they weren't glass, they were

synthetic and one would last as long as you wanted it to. You could use the same one forever as far as that goes. There was considerable testimony about how breakable they were and what the expense would be and Mo was building his verdict as high as he could by getting all the expenses he could think of.

Well I took the eye or one just like it that the plaintiff had and looked at it and threw it down on the ground. It bounced and I caught it on the rebound. I knew it wouldn't break. But no one knew how I knew and I never told them about it. I like to think that held the verdict down.

Kelly: (laughing) Bouncing the glass eye. A new defense trick.

Tape 1, Side 2

Kelly: Another thing, Judge, that I remember reading about you was that you were called a lawyer's judge, which, as a lawyer I can say is quite a compliment.

Tullar: I don't know who came up with that or why.

Kelly: Well let me tell you and maybe you can comment on their reasons for this. One of the reasons given for that was that it was said that you had "a keen understanding of

knotty legal problems." Did you consider yourself a scholar of sorts or a hard worker when it came to research?

Tullar: I was a hard worker, yes, and I did a lot of research, yes. And I was tall so I could reach books on the top shelf and did. My wife used to complain that I would work on Saturdays when no one else did but that was a very good day to do research in the office there. The phone didn't ring and. . . . I did a lot of research, yes. But I don't know about any other of those descriptions.

Kelly: Another reason given was that you placed the ethics of the profession first. I presume that's over . . .

Tullar: That was not so unusual in those days. Again quoting Tom Chandler who has been unhappy with the practice of law in more recent years, he said when we started it was a profession, now most lawyers seem to regard it as a business. We regarded it as doing a job for a client. Now he thinks most younger lawyers tend to be doing the job to get paid for it. This doesn't mean, I guess, that they don't do a good job, but he thinks that the younger lawyers have, and I guess I agree with him, the wrong viewpoint and it makes some difference, I guess, in how you regard the practice of law. I guess that's

true in all professions. I assume that accountants, doctors, whatever also are more fee-minded or more aware, even though they do the best work they can, that they're doing it to get paid rather than for professional reasons.

Kelly: Would you say that when you and Tom were practicing together back in the early days when you joined Tom and the emphasis was on doing the job for the client that payment or the source of payment was less important than it has become?

Tullar: Yes, I think it was. We earned a lot of money and I'm not complaining and didn't turn any back, but we did an awful lot of pro bono work and I think we did more in those days than you do now, although I guess the law firm that I was with still does a tremendous amount of pro bono, probably more than most firms. But I don't actually know. I haven't been there or seen there, that law firm, for so many years that I no longer can speak for it.

Kelly: Then the third comment made about you being a lawyer's judge was that you weren't afraid to make a decision. I would ask, when you were on the bench, were you inclined to make decisions and rule from the bench?

Tullar: Yes, many of them wrong. Most lawyers, I think, would

prefer a decision even though it may be wrong, sooner than to have to wait for it. We had a judge, not a Tucson judge, but he came to Tucson--I'm talking back, way back now--to try a lawsuit. He took it under advisement and a year later he hadn't ruled. One of the lawyers finally went to his chambers in another county and told him that he felt that it was time for the judge to rule. So he ruled the next day and of course he ruled against the lawyer that had gigged him into ruling. So lawyers tended to be afraid to hurry the judge along. So I was aware of that and I thought, "Well let's rule and get it over with." And I tried to keep my under advisement list at a minimum.

Kelly: Did you find that having been a judge, when you went back to the practice of law, you had a different perspective of how to try a case?

Tullar: I learned from being a judge a lot of things that judges didn't like and a lot of things you shouldn't do. In that sense, yes. I don't think I learned much otherwise.

Kelly: What kinds of things as a judge did you dislike when you saw them done . . .

Tullar: Orders to show cause in divorce. That's what made me quit. In those days orders to show cause why a divorce

should not be granted were heard almost routinely. As soon as somebody filed for divorce the opposition filed this so-called order to show cause, which was a hearing.

Sometimes I'd hear two or three of them a day. That was one of the strongest reasons why I was bored with the job after eight years and wanted to get out of it. I enjoyed criminal work, although I dreaded the thought that I might ever have to pronounce the death sentence.

I never had to and I was very thankful. I would have done it if I had to, but basically I was and am opposed to taking life even in that situation. Although there have been a couple of times I've found myself making exceptions when I've read about some of these animals who kill for fun or apparently for fun. But basically I was opposed to capital punishment and still am. But I never had to do it.

I had one case where I thought I felt it coming. In fact I got the defense lawyer in and said, "I'll do something that judges should never do. I'll tell you ahead of time, if you'll plead him guilty I'll give him life imprisonment and you won't face the death penalty.

Because," I said, "I smell gas in this courtroom and if you go ahead and go to the jury I think there's a good likelihood this man's going to be put to death." He

said, "Well I'll go talk to my client." He came back after a very short time and said, "If they want to give me the death sentence after this flimsy evidence"--which wasn't flimsy at all in my way of thinking--"so be it." And so he went to the jury and the jury gave him life, which, when the verdict came up it was my custom to look at the verdict and hand it to the clerk to read. I thought, "Well this is going to be the death penalty. I'll read it myself." I didn't want to ask the clerk to read. I was afraid she might break down. So I took one look and saw life instead of death and breathed a sigh of relief and handed the verdict over to her and let her read it.

Kelly: Do you remember who the defendant was in that case or what kind of a case it was?

Tullar: Yes. He had killed his wife by putting her, I think he either knocked her unconscious or killed her first, put her behind the wheel of the car and ran it down a steep hill into one of the canyon lakes where she, he thought, would never be found. He thought the lake was deep enough and the car went deep enough that it would never be found. But it was found and raised and her body was found in it and he was tried and convicted. But as I say the verdict was life imprisonment rather than death.

Kelly: Now, juries don't make that decision anymore. The judge decides on the death penalty. What do you think about that?

Tullar: Well I would have liked it because _____, the only thing is they would have all come to me because they would have known that I never pronounced the death sentence on anyone. But I think that's a good idea. But there again it depends on the judge. That situation prevailed with another judge who, having the option, pronounced the death penalty. I won't say who the other judge was now. But I remember getting him in my chambers and we talked for hours one late afternoon into the evening with my trying to persuade him that he should not pronounce the death penalty. But he did and the defendant was a relatively young man and he was executed. I'm not sure that any great harm was done anywhere except that I didn't believe in it. As I say, I've managed to think of some exceptions where I probably could accept it, more readily now than I could have then.

Kelly: Which kinds of cases did you find the most difficult as a judge? Ones involving the potential death penalty or the divorce cases and custody problems?

Tullar: Well custody was impossible. You couldn't please

anybody. You couldn't even satisfy yourself that you were doing. . . . No matter what you did it had to be wrong some way. I think those were probably the most difficult.

An interesting complicated case was never difficult. They were worth the effort and you enjoyed them. I was called upon to try a case involving water in the Gila River between an irrigation district and the City of Safford, as I recall. It involved going out into the countryside. We even had to go on horseback to view the various aquifers and to view the sources of water and who was right and who was wrong in claiming those sources. That case lasted several weeks and I worked on it hard and long and enjoyed it tremendously. That was a fascinating case.

I had several cases where there were real issues that mattered. One involved the jurisdiction of the juvenile court. It arose out of Maricopa County and I tried it up there. But the issue was whether the Board of Supervisors or the juvenile court itself or what other authority had the right to decide who did what. I found that to be a most interesting case. As I recall I was reversed on the Supreme Court on that one. But I still think I was right.

Kelly: Judge, what qualities do you think are most important when someone sits on the bench and acts as a judge?

Tullar: Lack of prejudice, willingness to overlook the--I'm trying to think of a polite word--the asshole lawyer . . .

Kelly: That's pretty polite, by today's standards anyway.

Tullar: . . . and give his client a fair shake. And that's very hard to do when you get some lawyers that are sure that they know everything and don't realize how little they know or how prejudiced they are. I don't object to a lawyer being prejudiced for his client's side of the case. I think he probably should be. But those are the types of minds that should not sit on the bench, I don't think, unless they can get rid of that. I think that a very good lawyer or even a reasonably good lawyer should be able to put aside those prejudices when he becomes a judge and do his job fairly and squarely.

Kelly: Do you think the job of a superior court judge has changed a lot since you sat on the bench?

Tullar: Probably not. I don't really know. One thing I liked about it in my day when there were first only three of us and then later on four, we each had our own calendar, we each handled our own cases, each of us was his own boss. Now, I guess, there's an assignment division.

You take what they give you and that may not be as much fun but by and large you still try the same cases and still try to give them the same attention and the same consideration. No, I don't suppose there's a lot of difference.

Kelly: Did you feel, when you were a judge, some social isolation from other attorneys?

Tullar: Yes.

Kelly: How did you notice that? How did it affect you?

Tullar: Well, if I went to have a drink after work I wouldn't go with the lawyer for the plaintiff unless the lawyer for the defendant went along too. Frequently that would occur and then there was not that much isolation. But if I were sitting in a bar and a lawyer came up and sat down and offered to buy a drink I'd look around for someone to join us to balance things and if I couldn't find anybody I'd decide that I was late and had to get home. So there was, yes, as certain amount of. . . . Although if you could balance it equally why then there was no problem.

Kelly: Would you say that part of that was due to just trying to avoid the appearance of impropriety?

Tullar: Yes. Very much so.

Kelly: One other thing I noted, and we'll be wrapping this up

in just a minute, is that you at least were credited with having a real like for giving a public speech. Do you remember it that way?

Tullar: No. When you were running for office I did. Running for office involved getting your, there's no issues. You can debate with another lawyer or another judge. All you can do is tell people what you do, and that was very boring. So if you could give a light speech and give them a few laughs why that was probably the best political fodder you could come up with. So in that connection I enjoyed speaking and made many, frequently short, but speeches that apparently were effective because in spite of my being a Republican, as I recall, in two elections I won every election district, wherever there were votes to be counted, even including Ajo which had never voted for a Republican.

What I did in Ajo was, I went over with Mercer Johnson who was very popular there. He, of course, was a Democrat. We were good friends and he introduced me. We stood on the corner by the bank in Ajo on a Friday when the miners were getting their paychecks cashed. He stood there with me all one morning or one afternoon and introduced me to all these people who came along, all of whom knew him. He may not have known their names, but

he introduced who I was. I never advertised in Ajo as a Republican. I advertised as in the Ajo Copper News but it didn't mention my party. And in both elections I carried Ajo by a large majority.

So I was always pleased that I could win elections and felt that I could have won and stayed on the bench forever if I'd wanted to. That might very well have changed had I had to make a few unpopular decisions, but I only quit because of my desire, as I used to say, to be a player rather than a referee. I enjoyed the trial involved very much too.

Kelly: Now we talked about how you met and married your wife earlier. We didn't touch on your children, though. You had several children?

Tullar: I have four children, all of whom still live in this area. One of them, my oldest, lives in Oracle. She commutes to Tucson, works in my old law firm. She works for the firm of Chandler, Tullar, Udall and Redhair, as it's still called.

Kelly: What's her name?

Tullar: Barbara Harding. She has two sons who are now, I guess, twenty and twenty-one. The next one down is a son, Richard, who has two children. He works for Tucson Newspapers, Inc. Then there's a daughter who's a

housewife and she has two young girls. The youngest is a son who has three children including a set of twins. He works for the university in the machine shop.

None of them went to law school or shows any interest in it and I never encouraged them to. I thought it would be just as well if they didn't become lawyers. We'd had enough lawyers in the family. One of my older son's children, however, who's now in high school shows some interest and I can conceive that he might possibly want to go to law school.

Kelly: When you were a judge did you ever feel that your children were any way at risk because of an unpopular decision you might make with criminals?

Tullar: No. No. It might have happened in a larger city or in another place but in Tucson that just never seemed to me to occur.

Kelly: Did they ever express any feelings that they had about your being a judge or your leaving the bench.

Tullar: No. They were all small, of course, when I was a judge. My oldest was only ten when I retired, so they were ten to four when I retired, or ten to three, in that area.

Kelly: Judge Tullar, it was really nice to talk with you today and on behalf of the oral history project we'd like to thank you very much for taking the time to share your

memories with us.

Tape 2, Side 1

Kelly: This is Virginia Kelly continuing an oral history interview with Judge Robert Tullar. This is February 27, 1992, and we're in Judge Tullar's home. Just before the tape was turned on Judge Tullar started to tell us about the old courthouse and was just starting to talk about his memories of that. So, Judge, if we could sort of recapture that last thought you had and then move on.

Tullar: I don't know what you mean by the old courthouse. The old courthouse, of course, was the courthouse and it's still one of the buildings that looks like a courthouse. It's used, I guess, by the justice courts now. I'm not sure what it's used for. But it was the courthouse in which we practiced law and did all our work for many years.

Immediately south of it on the other side of Pennington Street at the southwest corner, which is now the courts building, was what I would kind of call a rabbit warren of lawyers. There was a group of, it was a one-story building that faced both on Pennington and on Church and there were several different entrances and in each one

there were lawyers, some who paid higher rent and had their windows facing the street. But there were others inside that had no exterior windows.

One of these lawyers that I had in mind was a man named John Van Buskirk, who was a husky, fairly competent lawyer who was basically a sole practitioner, although I guess for a while he and Rose Silver, who is either still around or was around not too long ago, had sort of a partnership. She was married to Jim [James J.] Silver, who was also a better-known lawyer than many. But she and he did not, at least in the early days, practice together even though they were married.

But one morning as I was going back to my office, which was on Pennington Street, from the courthouse I saw a man running around the corner and a little later there was a great to-do and it turned out that this man had shot John Van Buskirk in the stomach. Apparently he was a disgruntled client. He was subsequently captured and I believe determined to be mentally ill. But I saw them carry John Van Buskirk out of his office on a stretcher with two holes in his belly: his navel and immediately below it the hole that the gun had produced. He lived for some time but eventually died of his wound. That was really about all I remembered about that particular

incident.

Kelly: What kind of law did Van Buskirk practice?

Tullar: Whatever came in the door, as almost everyone did in those days. This was during the war and the lawyers who had not gone into service were busy because the town was filled with soldiers who came up from Fort Huachuca and who were stationed here at Davis-Monthan [Air Force Base] and who came in from Marana and also from, there were soldiers stationed out on West Ajo Road at the airport out there. I say soldiers, I suppose they were mostly all airmen. Many of them who came up from Fort Huachuca were black and were very popular, very well received by local people.

Kelly: Judge, you practiced with Tom Chandler for a long time and [David] Burr Udall was part of that for quite awhile.

Tullar: Originally I started, while I was still in law school, working for Fred Fickett, who was a good trial lawyer and a good successful lawyer in town. I worked for him while I was still in law school and for several years thereafter. I finally left and opened my own office as a sole practitioner, on Alameda Street.

I was there almost exactly one year when Dick Chambers, who was Mister Republican in town and one of the few

around, urged me to run for judge against Mercer Johnson and Lee Garrett. In those days you couldn't run for the specific judgeship. You just ran for judge. There were two judges and three candidates so the two highest vote getters were elected. Needless to say, they were Johnson and Garrett, because I was, I hadn't run in the primary and I was a young unknown in town in those days, relatively, as far as the legal profession was concerned.

But Dick Chambers secured the creation of a third division of the superior court and he wangled my appointment for me to that. So that's how I became a judge. I think I may have told you before, it was strictly an accident, not that I had any reason or right to become a judge. But he wanted a Republican and I happened to be one. And that was it in those days.

Kelly: Eventually you left the bench and went into practice?

Tullar: Yes, I stayed on the bench for almost exactly eight years, leaving in the middle of my second elected term and went to join the firm that was then called McCarty and Chandler. Charles [D.] McCarty, who has died in the last few years, was a year or so older and had graduated from law school a year or so ahead of Tom Chandler. They became partners, leaving the firm of Darnell and

Robertson. They needed another lawyer and had just recently taken in an associate, a newly graduated student from the law school by the name of Burr Udall, who, of course, was the younger brother of Stewart [L. Udall] and Morris.

So when I was invited to join the firm I decided that I'd like to get back into the practice of law and so it became the firm of, for one year, McCarty, Chandler, Tullar and Udall. Then McCarty dropped out and it became Chandler, Tullar, Udall and later Jim [James L.] Richmond became a partner. Jim Richmond dropped out many years later and it became Chandler, Tullar, Udall and Redhair, which is what they still call it today, although I have been retired many years now. I don't know how many, but many.

Kelly: Do you have any particular memories of Burr Udall as a young lawyer?

Tullar: Burr was and is a very direct straight forthright lawyer who never told a lie, never tried to fool a jury in any way, and never used soft words when other words were more direct. He was not the very best of trial lawyers because of his inability to spin, spin a web I guess you could say. But you knew exactly where you stood and the juries knew exactly what he wanted, what the case was

about and if the case was weak, why he told them it was weak. Some of us would try to make it look better than it actually was by using, not deceptive words, but using softer words or maybe euphemisms. But not Burr.

I probably told you before if we talked about Tom Chandler that he was and as far as I'm concerned still is the best trial lawyer in Arizona. I don't guess I have to limit it to trial lawyer. He is the best lawyer I ever knew and I knew some good ones in my day.

Kelly: Judge, what characteristics do you attribute to Tom that gives him that title of the finest lawyer? What do you think of? What do lawyers have to strive for?

Tullar: His instincts are correct. Jurors liked him without him fawning on them or flattering them, but they just, well, people liked him. If people like you, I guess jurors like you. He has a sense of humor that, it's quiet but. . . . Jurors wanted to reach a verdict in his favor if they possibly could and he gave them every chance.

Kelly: There are lots of likeable guys out there with a sense of humor who still aren't going to make your list of good lawyers. What else did Tom have?

Tullar: I don't know. I don't know, I can't answer.

Kelly: Well let me try to pin you down just a little bit. What

about his ethics, for instance?

Tullar: Oh, they were impeccable.

Kelly: I'm sure you would call Tom an honorable man?

Tullar: Oh, yes.

Kelly: Is there anyone else you can think of right now that you'd like to comment on before we talk about Short Creek?

Tullar: No.

Kelly: Okay.

Tullar: Not unless it's something that you ask me about somebody.

Kelly: Well, if I have any thoughts before we finish here I'll sure do that.

Tullar: I'll tell you, just because it goes way back there, the best of the earlier trial lawyers that I observed either as a lawyer or as a judge was Ralph [W.] Bilby. Richard [M.] Bilby's his son. Ralph was one of the, what I said about him once was that he was one of those lawyers who never asked a question that shouldn't be asked. He always knew when to quit and not ask that one more question. The classic one more question is, supposedly, the lawyer who asked the witness, "Why don't you like my client?" and the witness spent the next twenty minutes telling him. That of course is the classic question not

to ask. But Ralph never asked one question too many. And he had a sense of humor and a light touch.

I don't suppose he'd have made as good a judge as his son has made but Richard was not as good a lawyer, by any means, as his father was, as a trial lawyer at least. They both were very intelligent and had legal instincts. Richard never practiced a lot of law and that's what his father did. His father practiced law.

Kelly: Now, Judge, just to digress for a second, my husband, when he first got out of law school, worked for Ralph Bilby's law firm. He said one of his first memories in that firm was when he was in the library at the firm doing research and struggling to try to find cases to support what the firm wanted, to find for the client, and Ralph Bilby came into the library, stopped for a second, walked over to a book, pulled it out. He said something like, just what I wanted, a case on all fours.

My husband looked up and said, "Boy you were lucky to find that." Ralph Bilby looked at him and he said, "Luck had nothing to do with it." He said he realized it at that time, the benefit of experience and knowing how to find what you wanted and having good instincts were so important.

Well after we spoke last time, Judge, I at your urging

learned more about the Short Creek incident that you talked to me about. What I have done in preparation for talking to you here is read an article that Patricia [H.] Wendel wrote, a legal history of the incident. With your permission, I'll just give a real brief sort of lead-in to where you became involved in the case. Starting back, just to identify where Short Creek is and what happened.

Tullar: All right.

Kelly: Short Creek is an area that is on the Northern boundary of Arizona and for anyone reading this oral history who would like to know more about Short Creek than you will learn today, at least the history, I understand from Pablo Jusem that the Historical Society has a copy of this article. It's called, "Red Letter Day in Short Creek." You can find it there.

In this article there's just a one paragraph description of Short Creek which sort of gives you an idea of what the place looked like. It's described like this:

"Massive cliffs rearing north of Short Creek's little central street provide a natural rock barrier to the north. To the east and west are the sweeping expanses of dry and almost barren plateaus before the forests begin. To the south there is the Grand Canyon. This is

the most isolated of all Arizona communities." In fact a lot of this community actually is in the state of Utah, just part of it is in Arizona. There's a stream up there and hence the name Short Creek.

This area was populated by a group of dissidents from the Mormon Church who were unhappy by bans on polygamy, both by the Mormon Church and by the state. There had been, in 1935, a raid there where a couple of the polygamists were imprisoned and in 1944 there had been some prosecutions for transporting women across state lines for immoral purposes.

Then in 1953 Governor Pyle and other authorities organized basically a raid on the Short Creek area for the purpose of arresting the people there. The charges were that they were all part of a conspiracy to break a number of laws in Arizona that included statutory rape, adultery, bigamy, open and notorious cohabitation, marrying the spouse of another and so on, all of which is detailed in Miss Wendel's report.

Judge, you were on the bench at the time this raid took place.

Tullar: Yes.

Kelly: You were eventually appointed by the governor to hear the case.

Tullar: Correct.

Kelly: Up until that time had you had any involvement in this other than reading about it in the newspapers?

Tullar: I don't believe I'd even really read about it. I knew the judge in Kingman. Short Creek is in Mohave County, although if you drive from Kingman to Short Creek you have to go around through Las Vegas and I believe it's nearly a thousand-mile drive to get there. If you fly, why you--and I flew up there twice in a small plane with a sheriff--you flew right up the Grand Canyon, a beautiful flight, to Fredonia, which is thirty miles east of Short Creek and a little south, I guess. Then we drove from Fredonia--we had to drive the sheep off the airport runway before we could land--we drove from there to Short Creek.

Whether they heard we were coming I'm not certain, but they knew we were coming and when we got there the children were all standing in the school yard, to my recollection, singing, "America" or "America The Beautiful. But they were singing.

One thing I remember was some child had drawn a picture, like children do, of a homely or ogre cartoon and thumbtacked it to the door of the school house with the name Governor Pyle under it. I took that and kept it

and for all I know, still have it.

Your description is quite accurate. About eighty per cent of Short Creek is in Arizona and perhaps twenty per cent was in Utah. The procedure was that if authorities of any kind came up from the south or the southeast, Fredonia way, anyone who wanted to avoid or evade them could just step across the line into Utah. If someone came down from Utah, why they'd step into Arizona.

The judge in Mohave County in those days was an elderly school-teacher type, more of a school teacher than a judge, by the name of [J.W.] Faulkner. He was very incensed with the fact that these people were breaking the law and had been incensed for so many years that he finally persuaded Howard Pyle to do something about it. So Howard Pyle, together with Utah authorities, had a raid with people coming up from the south through Arizona and down from the north and they took the Short Creek residents away. They put the children with, temporarily at least, and many of the wives, with good Mormons in Arizona, in Holbrook or the St. Johns area, Show Low I guess.

The men were imprisoned shortly and that's when I went to, at Governor Pyle's request, since Judge Faulkner disqualified himself, to take their pleas. I went up

one time to Kingman to arraign them. Before arraigining them, we--I don't recall why, but I went twice, as I recall.

The second time I thought that they were going, we anticipated not guilty pleas and I was going to schedule trials. I thought that would a long-term tour of duty.

But it turned out they all, quite unexpectedly, pleaded guilty and expressed a desire to be sentenced right away. So I don't recall whether the sentence was that day or a week later but I had written, I wrote some kind of a speech, part of which was reprinted in one source or another.

I remember telling them that I didn't want to make martyrs out of them and I felt that if I put them in the penitentiary they would become martyrs to a certain group. So anyway, I gave them all probation and they were ordered to write me a letter once a month stating that they had not practiced polygamy in that month.

I rather erroneously thought they were, well they were law-breakers on their religious beliefs. I didn't think they were liars. But they were. They all wrote, every month I got these letters saying, "I have not practiced polygamy." But they had. They went right back to their multiple wives as fast as they could. Eventually, I

think, everything returned. In other words, I don't think anything was accomplished. The only thing that I know was accomplished, looking at a map now I see that the name of the town of Short Creek is now called Colorado City.

Kelly: Colorado City?

Tullar: For no reason that I am aware of except that quite away south, it's not right on the banks of the Grand Canyon by any means, there's quite a bit of the North Rim of Arizona and as I already mentioned, Short Creek is actually partly in Utah, so it's the very northernmost point of the North Rim.

Kelly: Now this happened, the sentencing of these people was almost forty years ago.

Tullar: That's right. It was in the--did you say 1953? I would have guessed 1954 or 1955.

Kelly: Yes. 1953. The raid was in 1953.

Tullar: Well, it wasn't _____ so it may have been 1954, but no more than that.

Kelly: One of the things that, as you indicated, you wrote or at least it was recorded what you said at sentencing and that has been printed and reproduced in Patricia Wendel's article. You referred to studying the Bible, actually, to try to find some verification of their

claims that the Bible approved of polygamy and even went through--I don't remember what you called it right now--but it was a book, was it a Mormon-based document trying to, you said you used it almost like a lawyer uses an index to the code trying to find the references that they believed in the Bible that supported polygamy and that you had been unable to do that.

Tullar: The only times that there was any--well I don't recall now. But you're right, there's no really justification for polygamy except, I think, in ancient times when men of the tribe had been killed off and there were only a few men left and many women, why I think as a matter of survival of the tribe polygamy was allowed. But it was never, to my way of thinking, or to my recall, ever regarded as a natural or a normal way of life at any time under any culture. I suppose there are other cultures where it was allowed, but I don't think there was any--my impression would be that it was never allowed except where there was a very good reason for it.

Kelly: In reading what you wrote it sounded like you also really had taken, were personally offended by the idea that the young girls were watched to grow up and then spoken for when they were . . .

Tullar: Yes, that one shocked me tremendously, that when a girl was fourteen some of these old geezers would have a meeting and decide she was ready. That was the word they used in one of their ledgers or something that I had. I recall that. Sister So and So is ready and then some old guy who had the most influence or most importance would claim her as his third or fourth or multiple wife and she had no choice in the matter.

Kelly: You commented at that time that polygamy couldn't be defended on an ethical or sociological basis, which is what you were just telling me, and that in our society women have equal rights and cannot be told whom to marry and when. That, in 1953, was probably not as frequently expressed as it is today. Did you have any feedback from that comment?

Tullar: Well probably. I got an awful lot of letters. I don't know what's become of them. I dug out that envelope, I guess, for Patricia Wendel, but it doesn't have much in it. I don't know what became of them, but I got letters from all over the country because this was reprinted in newspapers and columns. I don't recall all where, but a cousin of mine who read about it in a newspaper in some, I've forgotten where, remote part of the country wrote me to tell me how surprised, ashamed she was of me for

being so narrow minded. Yes, I got all kinds of pros and cons and blame and credit.

Kelly: Would you say that was the most controversial case that you were part of, maybe on a nationwide basis?

Tullar: Well, it's the one that got the most publicity, certainly.

Kelly: One of the things you talked about at the time of sentencing was how the different functions that sentence, the purposes of punishing somebody when they've committed a crime and the first one you talked about was giving society revenge for an offence that's been committed against it. You pointed out that in this instance revenge was really the farthest thing from your mind. And you commented also on rehabilitation, saying that you really didn't think it was possible to rehabilitate those gentlemen and I guess from what you just said about the fact that they lied to you in the letters sort of bears that out. You commented that there hadn't been any repentance at all. You also felt that deterrence wasn't really going to be served and that's where you talked about not wanting to make martyrs and heroes out of them for the people who would want to follow the same kind of lifestyle. I think what really struck me was right at the end when

you officially commenced the period of probation. You said, "Gentlemen, you are now on probation. You take with you my fear that you will fail, my hope that you will succeed, my hatred of your crime, my love of you as my fellow men."

Tullar: I was pretty poetic in those days.

Kelly: Very much so. Very much so. What, if any, reaction do you recall from the men you sentenced that day?

Tullar: Very little. Very little. I recall them afterwards standing around in the front of the courthouse, on the steps or the railings or whatever and they were kind of laughing and scratching among themselves and they didn't seem to be. . . . I don't think they were high class people to tell you the truth.

Kelly: As you look back on that incident do you have any thoughts on whether this was something that we should have tried to intervene with or not?

Tullar: Well, in the sense that it was definitely all the crimes that you listed there at the beginning, I suppose crime should not be ignored and it should be punished, but I don't think this accomplished anything at all. Just a lot of publicity and noise and I don't think it did any of the victims any good, although it may have and I'm not aware of it.

Kelly: It looks like at least some of them chose to remain in Phoenix . . .

Tullar: Maybe. It may be that many did. Maybe some of them got some help them.

Kelly: Right. But it does sound like they, at least the ones that went back to Short Creek continued the same kind of life style they had had before. I don't know if you were involved in this part, but Miss Wendel's article talks about Lorna Lockwood going to Short Creek.

Tullar: I think she dealt with the juveniles. I believe she was the juvenile judge in Phoenix at that time.

Kelly: Yes. She actually went to Short Creek too.

Tullar: If she did then I'm sure I knew it at the time, but, no, I had no dealings with her as far as Short Creek was concerned. I knew Lorna very well and we had worked together on a number of different things in the course of my years on the bench and even later, but no, I never had any dealings with her as far as the Short Creekers were concerned.

Kelly: One of the things that happened at the time the adults were, the men and the older women who were being prosecuted were taken from Short Creek, the juvenile judges and child welfare personnel went into Short Creek and eventually all the people there who. . . . I

guess it was determined that all the children would go to Phoenix and any of the mothers who wanted to go with the children could go and that many of them eventually did stay there.

Tullar: So maybe there was more accomplished than I remember.

Kelly: At least for some of them they had the choice to live a different life style and it appears from reading this article that at least some of them chose to do that and not continue on with the Short Creek life style. Is there anything else that you would like to add that I didn't ask you about?

Tullar: No. I don't think it did Howard Pyle any good. In fact, I think that eventually it was the cause of his, whoever beat him in the election. I think that he lost a lot of votes by reason of it.

Kelly: A lot of controversy over the expense of the raid and the number of law enforcement people that were sent in to do it. I think it was suggested that probably six could have handled it but they took seventy or something like that.

Tullar: In those days a very popular and successful magazine was Life. Life sent a team up there. In fact they met me, I flew in the night before they met me at the airport and wanted to drive me in. I wouldn't let them. I went

in with the sheriff. They wanted to buy me drinks and gossip with me in the hotel and I went to my room and wouldn't have anything to do with them. The next morning they were waiting for me when I came out of my hotel room and I wouldn't have breakfast with them. They wanted to take pictures in the courtroom. I wouldn't let them. They pleaded with me and told me how they'd appear and they wanted to make a big spread of this for Life Magazine and how well-known and how famous it would make me and everything else. I said I wasn't interested in that and I said, "You're not allowed in the courtroom." They told me their cameras were silent, no one would even hear a click. I said, "You're not allowed." In fact, I finally got it, I said, "I won't allow you on the second floor," which was where the courtroom was. They were allowed to get as far as the stairs. Half-way up there was a place where you turned and they were allowed up as far as that turn in the stairs but no further. They took some pictures of the men outside afterwards and one or two were published, but they were very, very unhappy with me. By a strange coincidence, many years later, I was at a university or college of law function. There was a photographer there taking pictures. It turned out he

was now employed by the University of Arizona and he was that same photographer. He remembered it. I said, "Well you can take a picture now if you want." He subsequently opened a photography store on Broadway and as far as I know is still here in town.

Kelly: Do you remember his name?

Tullar: I don't remember it. I would if I saw it or heard it but I can't say his name right now. But it's kind of funny that after he and I had had almost a battle we became sort of friends many years later.

Kelly: Was it just the cameras that you didn't allow in the courtroom?

Tullar: I wasn't going to allow any pictures. In those days, really, judges didn't. I'm surprised even now when I see pictures of the court in session. I can't see any harm in it now from this vantage point, but in those days we just seemed to think it was absolutely not right to have publicity. That was not what the courts were for, publicity. But that's all changed.

Kelly: Were the Life reporters allowed in the courtroom to cover the trial?

Tullar: Yes, public, anybody. Yes, the lady, the reporter part was a woman and she wrote. But Life wasn't much interested in them. You know, they wanted pictures. So

if there was an article in Life Magazine it was a very brief one and I don't even remember that there was one. Time probably had something but I don't recall that either.

Kelly: Did you have any other cases where the media wanted to bring cameras into the courtroom? Do you remember any other dealings with the media?

Tullar: Not at the moment, no. There could very well have been.

Kelly: Is there anything else that you'd like add about Short Creek or anything else before we finish today?

Tullar: I don't really think so.

Kelly: Okay. Thank you so much for letting us come back and learn more about the Short Creek incident and sharing your other recollections with us.

Since I was here last I went to Tom Zlaket's swearing in to the Supreme Court. I remember you speaking very highly of Tom. I happened to see a few people there who asked what I'd been doing and I shared with a couple of them that I'd been out to see you. They were so interested in knowing how you were and what you were doing. One of them was Bill [W.E.] Dolph and he remembers you with a great deal of respect.

Tullar: When Bill Dolph first came out of law school I put him, I say I put him, I recommended him and they accepted him

as an assistant attorney general. This would have been in the fifties. Of course he spent many years with the Boyle, Bilby, Thompson and Shoenhair firm as it was called in my day. Originally it was, it was Bilby and Shoenhair was one firm and Boyle and Thompson was another. They merged and became Bilby, Thompson and Shoenhair.

End of interview.