

JACK T. ARNOLD INTERVIEW

Rauh: Judge Arnold, thank you very much for consenting to be interviewed for the oral history project. As I indicated, I talked to your son John just a little bit before I came over. Just as a little bit of background, I understand that you were born in Dupo, Illinois, which is somewhere close to St. Louis.

Arnold: East St. Louis.

Rauh: East St. Louis. You were in the army, in the infantry, and then went into the air corps as a bombardier and served in World War II and then again in Korea. And it was while you were training for Korea that you first came to Tucson?

Arnold: No, I first came to Tucson while I was training for Korea. I brought a gunnery crew out here in 1951 and fired on that Sierrita Range. We were getting ready to go to Korea. But when I came back from Korea in April the first of 1952, I was assigned to Davis-Monthan [Air Force Base]. When I came here the last time, when I stayed, was in April of 1952.

Rauh: Were you in a Jag in Korea?

Arnold: No. I was a bombardier. I was in the Nineteenth Bomb Group, which was part of the Twentieth Air Force. We were stationed in Okinawa and we flew, it was nine hundred miles from Okinawa to Korea. We used to fly that, it would be fourteen hours round trip.

Rauh: Those were B-29's?

Arnold: B-29,s.

Rauh: And you met Mrs. Arnold in Korea?

Arnold: In Korea. In Okinawa, really.

Rauh: In Okinawa? And she was a court reporter?

Arnold: A court reporter. What I would do, when I wasn't flying, I would come down and when men would get in trouble for one thing or another, I would represent them as the base defense counsel. But my full-time job was flying missions in the B-29.

Rauh: As a bombardier?

Arnold: But I would just do, I volunteered to do that defense work. I would come down and land some mornings and be up fourteen hours and I'd go in and try a case.

(laughter) It was very interesting.

Rauh: You got some great trial experience.

Arnold: That's where I met John's mother, Dorothy.

Rauh: Then after you were deactivated, you came to Tucson and were stationed at DM?

Arnold: Well, no. See, John's got it . . .

Rauh: John's probably got this all screwed up.

Arnold: See, I graduated from St. Louis University in 1950, after my experience in World War II and I started practicing law at 408 East Olive Street with a fellow by the name of Glen Moran, who was a World War II fighter pilot, an ace, a fifty-pilot ace. He had the national guard unit at St. Louis. At that time they were flying P-51's. Glen and I practiced law, I worked for him for two years while I was going to law school. Then I graduated in June of 1950. Then in December of--the month I graduated was when Korea broke out, when they crossed that, when the North Koreans came down into South Korea. So I never even thought about getting a recall, so in December of that year I came home from, I went to _____ for a football game and I came home and there on the mantle was a letter that said, "You will report to Randolph Field," because I had kept my commission, see. So I reported to Randolph Field and then--that was in early of 1951, about April or May--and then I went over to Okinawa probably in maybe April, May, about maybe June of 1951.

Then I stayed over there and I flew thirty missions, and I came to Davis-Monthan April the first of 1952 with my crew. See, at that time you had to be here six months before you could take the bar.

Rauh: They had a residency requirement?

Arnold: Yes. So I got out of the service in September of 1952. I went back to St. Louis and I tried a first-degree murder case and a rape case. Just went over to the public defenders office and said, "I'm back and I want to get back." So I started, and I moved back in my old office with Glen Moran. But then the weather started getting bad and Dorothy didn't much like it back there and I thought, "Well, I'll come back out here." Because when I was at the air base, if you had flown a tour and if you had thirty months, or twenty-one months in the service, you could get out. It took me from, god, from then until September because they wanted, if you had a degree, they wanted you to stay in the air force. They didn't want you to get out. I wanted to get out. But while I was at Davis-Monthan I met Henry [G.] Zipf and Dave [David K.] Wolfe. They were both in the legal office out there. They had been recalled. Mo [Morris K.] Udall was there at one time too. But then Tom [Thomas] Chandler came out on some cases and I met Tom. And I met all the lawyers. There were only a hundred lawyers in Pima County then. But I had met all those fellows and we had such a good time so that when I went back to St. Louis in the fall of 1952, it wasn't hard for me to make up my mind that I wanted to go back out there where the tortillas and beans and easy living was. (laughter)

Rauh: Sunshine.

Arnold: Because there were three divisions in the court. [J.] Mercer Johnson was Division One, Lee Garrett was Division Two and Robert [S.] Tullar was Division Three. And that's all there was. It was just a very small group of lawyers. The first Bar convention

I ever went to was in 1952, and I don't know if I've been to one--it was in Prescott and I heard Senator [Henry F.] Ashurst. You know, Senator Ashurst, and most people now don't even remember who he was. But he spoke at the Bar convention in Prescott and there probably wasn't two-hundred-and-fifty at the whole Bar convention.

Rauh: And most of those were from Phoenix.

Arnold: They had it up there over in some lodge hall. It was a dusty, dirty place. They had the reception afterwards out at the, some country club, and the women, the lawyers' wives, brought potluck out there. Gee, it was a great Bar and, you know, everybody drank and we had a great time. Senator Ashurst talked about the purple mountains majesty of Arizona and it'd bring tears to your eyes. He was the old guy with the long hair in the back and the bow tie and, gee, he was a theater to watch him. So I drove up there and Raúl [H.] Castro was up at the convention and Dave Wolfe, Henry Zipf, Tom Chandler, all those fellows were at Prescott. But there wasn't a couple of hundred people there, see.

This was in 1952. I hadn't taken the bar; I'd just come back, and they asked me if I wanted--and I was still in the military because I hadn't gotten out of the service because it was in the summer of 1952 then that I went over to that Bar convention. So I knew all the lawyers, and gee, they were a great bunch of guys, so I said, "Well, I'm just going to come back out here." When I came out in, I came back in Thanksgiving, in November of 1952. I didn't have a job and you couldn't practice law and take the bar until you were here for six months then, they had a residency requirement. So I went and I finally, I got a job with the General Adjustment Bureau over on, they were located on East Jackson Street right at Jackson and Stone, right behind the Western Hotel there.

Rauh: That's an insurance adjustor?

Arnold: Yes. So I worked there for the better part of 1953 as an insurance adjuster. I went over and bought those cram books from Professor [Chester H.] Smith. I didn't take his course because I had to work and Dorothy was with child, our first child, Tom. So I just took the books home and read them and I took the bar.

Rauh: He was the bar review course at the time.

Arnold: Yes, he was great. I read those books and I'd run over and maybe I'd catch one of those sessions, but I was out working. And so I did that. In that class of people taking the bar was Dean Stubbs, who just died, Carl [A.] Muecke who is a federal judge, Alice Truman who was a federal judge on this bench, Jo Ann [D.] Diamos who was in the U.S. Attorney's office for years, oh, and a host of other people that I can't really. . . . And that's where I met my fellow that I practiced law with for twenty-five years, at that bar review course, John [P.] Somers. He was a fellow that came out from Minneapolis.

Rauh: He's quite a story in himself in terms of being . . .

Arnold: Yes, Pete was a great guy. Pete Somers was the first member of the American Academy of Trial Lawyers to be here in town, before Tom Chandler or any of those guys. He was really a very fine lawyer and really a very decent human being. He and I practiced law on a handshake for twenty-four years plus out there, and did a lot of, and we went all over. In those days you wouldn't try railroad cases here, you'd take them to San Francisco or over on the Coast and they hadn't put in the rule of forum nonconvenience at that time, see. So everybody would traipse from Tucson and we'd go to San Francisco, which was kind of fun. But Pete and I went all over the country at one time or another, trying cases, and we had a nice law practice.

Rauh: You're primarily a plaintiff's case?

Arnold: Plaintiff, yes.

Rauh: And your usual defendant was the railroad?

Arnold: Well, a lot of times it was, but I did everything. When I came here, when I said I wanted to try cases, gee, I had my desk--this was before those inter-company arbitration agreements. So the lawyers around town had tons of those subrogation files and none of them wanted to go to court on them. So like Will [Willis R.] Dees, he brought me over about twenty cases, stacked them on the desk and said, "Here." So I had all the business that I wanted to. But I think the first year I practiced law here I made eleven thousand dollars, I told you. We bought that little building at 2016 East Broadway and I stayed there until 1975, from 1953 until 1975, in that building, see. And enjoyed every minute of it there.

But in those days, you see, the top defense firm in Tucson, in those days, was McCarty, Chandler. Charlie [Charles D.] McCarty who, you know, was just a real fabulous guy, he was smart. He and Tom Chandler, they made a great defense team there. They had all that and they had the Holesapple . . .

Rauh: Avie [A.V.] Holesapple?

Arnold: Yes. Holesapple, Connor, Spade and that firm. And then of course, your firm, your old firm, Bilby and Shoenhair, it was at that time . . .

Rauh: Bilby, Thomson.

Arnold: Mr. [B.G.] Thompson and [Ralph W.] Bilby and [T.K.] Shoenhair and Dick [Richard B.] Evans was up there, and they had a, that was a real going firm. And they were kind of the white tower, the ivory tower of the law business in those days.

Rauh: Right.

Arnold: You had a hard time even getting to talk to most of those fellows. (laughter) Until

they commonized the law firm by taking Mike [Michael A.] Lacagnina in there.

Then they understood that it was a people's law firm, see.

Rauh: (laughing) He'll commonize any group.

Arnold: Yes, it was really fun.

Rauh: You practiced with Pete Somers for about twenty, twenty-five years?

Arnold: Yes. Pete and I practiced from the latter part of 1953 until I came up here in 1975, whatever length of time that is.

Rauh: You then, I understand, had quite a number of, actually pretty famous cases with Mr. Somers.

Arnold: Well, we did. You know, trying to go back and remember, we tried, like I say, that case we tried with Harold [C.] Warnock and Buck Thomson. It involved a train-automobile crash on the railroad crossing between Patagonia and Sonoita. It's not there anymore. It was probably the last train that ran that way.

Rauh: Was it a spur off of . . .

Arnold: _____. No, the train came around a bend and crossed that crossing there, see. We got a verdict of fifty-five thousand dollars in Division Three and Bob Tullar was the judge. I think if you'll check that, you'll find that's probably the first case in Arizona that set forth the principle that you can read the deposition of a party for any purpose whatsoever, even though the party was in the courtroom. We were going to read the engineer's deposition and Harold Warnock objected to it and then Tullar over-ruled him, see. Tullar was a real smart judge. It's just really too bad--and he was a real smart defense lawyer. But he would have been, he was an excellent judge. The three judges here at the time, Mercer Johnson, Lee Garrett and Bob Tullar was as good a bench as you'd find anyplace in the United States. They were all smart but they

were very reasonable people.

Rauh: Tullar subsequently left the bench and . . .

Arnold: Tullar went with Tom Chandler in Chandler, Tullar and Udalls. But I haven't seen him, but I have the greatest respect for him because he was really a very decent man and a very good judge. When I came back--you know I had graduated in 1950 and I had practiced, well actually I had been in a law office for two years before I graduated and then a part of the year after I got out, before I went back into the service. So there was a lot of things I didn't know. I'd go ask Tullar about them _____ . He'd say, "Go get this file," and "Go get that file," and he was very, very helpful to me. A very nice man. And later on when he became a defense lawyer, I tried cases with him. One of the biggest verdicts I ever got was against Tullar on a vehicle case. I think the jury came in with a hundred-fifty-four thousand dollars.

Rauh: What year was that?

Arnold: God, I forget how long ago. That was a long time ago. The jury came in on Friday with a verdict and--you can place the case--the jury came in on Friday and on Monday the Supreme Court came out and reversed a case on the basis that they'd given what we used to call "standard civil instruction number five." This was a substantial factor instruction that said before something can be a cause it had to be a substantial factor. They reversed that and you've got the causation instructions nowadays. So they reversed that case and we'd given that instruction in this, I think Thiel, Thiel versus, oh, the guy's name was Murphy or something. He hit a woman with a Volkswagen, he hit her with a big Lincoln see. That jury, that was a big verdict in those days. This was, I don't know, it might have been that it was near Christmas in whatever year it was. I think McDaniels is the name of the case that

said that the substantial factor instruction wasn't to be given anymore. So I really got kind of nervous and we settled the case, and I got a good settlement, see. But that's a long time ago.

But we had a lot of, I tried a lot of cases. I tried the Bear Down Riot case, you know in the . . .

Rauh: Oh, yes, during the war?

Arnold: That case was very interesting. Well, when they had the big to-do over at the university about the Mormons playing here.

Rauh: Oh, oh, that one.

Arnold: Brigham Young [University] would come down and they'd play basketball and they had riots over at the campus because they thought they were discriminating against Blacks. They walked on the floor and stopped the basketball game before that and they had a big riot outside and stuffed some cops in the garbage can, somebody assaulted Swede [Marvin D.] Johnson and it was a real. . . . So I had one of those defendants. We tried a case up here and that was the first case that I ever remember, I think it was probably one of Steve [Stephen D.] Neely's first appearances. He was with the county attorney's office, he was a county attorney. He wasn't the county attorney, he was a deputy and he was kind of second chair to Randy [William R.] Stevens. They tried it over there before Judge Richard Royston and they didn't bind my client over, which I was very happy about. But they bound over the Bear Down Seven, you see.

Rauh: Right. Your guy wasn't one of those?

Arnold: My guy was a girl and she didn't get bound over. She's a lawyer now, I won't tell you her name, but she's a lawyer now and she's got a real good job, so she wouldn't care anyway. But when she went to law school she had more experience than a

lot of people in the courtroom, so she does a good job now.

Rauh: Just the wrong side of the Bar.

Arnold: But we had all kinds. I've tried a few criminal cases but mainly I stayed with civil cases. Since I've come up here I've had some very exciting cases.

Rauh: Now you got to the bench in 1975?

Arnold: In 1975. See, I was about one of the first, about the first . . .

Rauh: You're the first merit selection judge.

Arnold: . . . merit selection judges. I'm the only judge Division Fifteen has ever had.

Rauh: I guess merit selection started that year, right?

Arnold: It started in 1975. It was passed in the election of 1974. Dick [Richard M.] Bilby then, Dick Bilby was the Republican chairman of Pima County in 1974. He and I and Bill [William D.] Browning sat up and counted the votes up in the computer section election night of 1974.

Rauh: You were the Democratic . . .

Arnold: Well, I wasn't. I had been the Democratic chairman here in, gee, I forget. Maybe it was in 1968 or somewhere. I forget exactly the year, see. I was the chairman before Gene Karp. Gene served three years as chairman, those are one-year terms, and then Dennis [DeConcini] took him to Washington [D.C.] when he went to Washington, with him, see. But Dick Bilby was with it and Bill Browning and I sat up there and counted the votes on election night in 1974. Because you see, I had been a real opponent of merit selection.

Rauh: Oh, you had?

Arnold: Sure. Because I came out from Missouri and I knew the Missouri plan and knew that it was fraught with political intrigue. So for I don't know how many years myself and Woody Bouldin and a few other lawyers would traipse to Phoenix and talk against

merit selection on the basis that if you put in merit selection that it would evolve that certain people would be appointing the judges.

Rauh: Politicize the process.

Arnold: Yes. And pointed out to people how the process could be bent to the will of powerful people, or people who were in a position to bend it, see. And the jury's probably still out on that. There's some grumbling, but merit selection's probably a better system than that old system of popular election of judges, you see, because popular election of judges, the people really don't know the judges either. Because in 1954 Morris [K.] Udall ran for judge and Morris Udall was on the ballot with a guy by the name of Joseph [H.] Riley and I forget who else, but he got defeated, and Mo Udall is probably as fine if not the finest lawyer that's come along here in the last fifty years.

Rauh: Sure. Probably the last election Mo lost.

Arnold: Sure. Mo Udall, if you know, if you've ever seen him in a courtroom or been around him, he really stands head and shoulders over most people, see. If you go back, Mo Udall tried a case that other lawyers wouldn't even, wouldn't recognize that there was a cause of action there. It's really too bad. Sometimes I think if he had stayed in the legal community here he probably could have done a lot of good for Arizona, because it was his idea of establishing the tiers, the appellate courts. Mo Udall had those ideas way back in the fifties, early fifties. But he tried several really great cases.

He tried a case where a fellow got electrocuted over behind a bank there and he tried a case for another fellow who ran onto Sundt's property down there, I think it was Sundt's, and at that time the law was a hundred percent against you. See, he was a trespasser, a guy on a motorcycle. Mo Udall made a case out of it and got a

good verdict. And I think that fellow also went to law school. But he's really good, you see.

But then the bench started expanding, you know the Roystons [Richard and Robert Royston] came along and I think they got on. And Judge [Herbert F.] Krucker. Krucker was the person who won the judgeship in 1954 when Mo Udall got defeated. Mo always claimed that he was defeated because at that time they put the names on the ballot in alphabetical order, so he was the . . .

Rauh: His was the last . . .

Arnold: Riley was above him and Joe Riley beat him. And Joe Riley never did anything after that. A very nice man, a very decent guy, but Mo got beat, you see. Then he finally, when Stewart and that—I was trying to think, in that election, was it in 1954, that's when Stewart [L.] Udall went to Congress, probably. I could have my dates mixed up.

Rauh: About that time, yes. Mo was the county attorney. Mo tried some great cases around. But he really was an exceptional trial lawyer. But since I've been on the bench here I've handled three of those Miracle Valley cases, you know, where they had the enclave of people from Chicago down there that they claimed they were terrorizing Cochise County, which was maybe part true and partly untrue. Maybe it was just, you know, civil, it was just disobedience to the law. I tried one case down there and the guy was acquitted. (sound of someone knocking on a door) We have a verdict? We'll cut this off and I'll come right back.

Tape turned off then turned back on.

Rauh: Just before we were interrupted . . .

Arnold: Well the Miracle Valley cases were, there was a, her name was Reverend Thomas. She came out from Chicago and brought a bunch of people out here and they

had a religious affiliation in a church. They purchased some property down there called Miracle Valley. A fellow by the name of A.A. Allen had started a radio evangelistic program down there and he was very successful, for a time, I think. But then he, I don't know, he had some problems and I think he met his death in San Francisco in some kind of a situation. I don't know what his problem was so I'm not going to talk about what A.A. Allen's problem was. But he had this enclave where he established this radio church and they bought it. They moved in there and some of them became very militant and they wouldn't let the meter readers in there, they wouldn't let the gas people in there to read the meters and they were sort of a community to themselves. It made all the people all the people down there nervous and one thing led to another and they had confrontations.

In the first case I went down to Cochise County, they asked me to come down and try it. One of the defendants was a young fellow by the name of Brown and he had been accused of assaulting some white kids in a Volkswagen at a hamburger stand and had pulled them out of there. It was an ugly mess. So we selected a jury, and I think there might have been a couple of co-defendants with the defendant Brown. We tried them up there and the jury found them not guilty. There was a real question, it could have gone either way, but that Cochise County jury they were very fair and they tried them.

So then the next case up here, it was tried up here, I think there was six or seven females who had accosted a news team from one of our radio stations here and it was on TV every night. They threw a hammer at them, it was the hammer case. Maybe you, do you remember that one? Do you remember it? Every night they showed that, the TV stations showed these women. They chased them down the road, they chased the news reporters off. One of them just threw a hammer so

they charged them all with assault. Well they brought that case up there and they had it on TV. We tried the case and these people defended their rights to the very last. They all had court-appointed lawyers and we had, for that hammer-throwing case I think we had seven lawyers. I forget, but maybe that was the case that the lawyer came out from Chicago. He was a well-known Black lawyer and very good. Seven lawyers tried that. We tried that case for a couple, two or three weeks. The verdict came in guilty, and they were all guilty of misdemeanors. So nothing much happened, I put them all--they were really very nice women. I developed a, what I thought was a real great rapport with them during the trial. We got along great and I sentenced them all to fines and probation and that was it.

Then the next case became more serious because the defendant Brown, who had been in the first case down there, there was a big riot over at the high school there at Sierra Vista--was it Buena Vista High School?

Rauh: Right. Buena.

Arnold: Buena Vista High School, right at the rush hour on that main street down there. They blocked the traffic and it was all hell to pay and it was a big melee and a violent confrontation between some of those defendants, some of the people from Miracle Valley. They attacked a couple of police officers with weapons and they took their billy clubs away from them. Then there was an incident, I think, where they drug some people out of their cars and they actually took their cars and sped off to the enclave in Miracle Valley, pursued by the police officers at a high rate of speed, by the Arizona Highway Patrol. Then from the fort there, or the enclave, at Miracle Valley help came and they cut them off at the pass and these guys escaped into the enclave, until they went out and they arrested them. They brought them down here and tried them. That was the case, I think, that we had

Armand Salese tried, he was defense counsel for them and a fellow by the name of Joseph De Franco [Joseph J. DeFrancesco] and then the lawyer from Chicago who is a very good lawyer. I can't remember who the other defense lawyers were. That case went on and on and it was very difficult case because tempers were really high and they really pushed each other there. Well the verdict was guilty and I sentenced all those defendants to a term of prison of one type or other.

Later I got a real nice letter from Brown, that's why I remember his name, but I got a great letter from him thanking me for what I'd said to him during the trial when I'd sentenced them and asked me to write a letter of recommendation for him to the air force. I don't know whether he ever got into it or not. But I made friends with a lot of the people who were court watchers for the defendants who were from Miracle Valley. We got along pretty good and I never heard any complaints that they didn't think they had a fair trial. It went on appeal and was affirmed, see. But those were the three Miracle Valley cases.

I had the American Atomics case in which Harold Warnock was representing the corporation American Atomics.

Rauh: Down here off . . .

Arnold: Down on South Plummer that they had a factory down there that was making dials for watches and for instruments of one side or another and they were using tritium. Somebody became, somebody got, one of the employees blew the whistle on them that they were letting that tritium into the atmosphere. Immediately a lot of the people in the neighborhood had great symptoms and called their lawyers. (laughter) Then it just turned out that the Tucson Unified School District had their main warehouse right nearby and the next cry was, "The food is contaminated." One thing fed on another and it was, I call it Tucson's Five Mile Island. God, it was

terrible, and the hysteria and it put that company in bankruptcy.

Well, we had a hearing in here, the case was assigned to me, we had a hearing in here. We had the atomic energy people from Arizona, we had the American Atomics people, we had the county attorney, we had I don't know how many lawyers in there and they were going on and on. The main thing was the kids that didn't have any place to get food for their school lunches and this and that. There was a big crisis. They said it contaminated the Saint Ambrose swimming pool. I think later the Saint Ambrose kids became known as the Atomics.

The news media, and I'm not criticizing them, but they really fed on this and they pumped it up. So finally I called the university and I had a fellow come over who was an expert on radioactivity and he got on TV and told them exactly what tritium was and said, "Hell, there's more exposure to tritium if you drive up to Mount Lemmon, from the asphalt," see. And he just said there was nothing to it.

But no one would give in and they couldn't agree how to dispose of all this contaminated food and so forth. Then it was suggested that it be buried down at Sahuarita or someplace and then there were threats from some people, if they tried to bulldoze that they were going to lay down in front of the bulldozer and no one was going to put that stuff in their back yard and blah. . . .

And it went on and on and on. It went on for, I don't know, god, I don't how long. So finally I just signed an order and I told the county, I said, "You go down there and you clean that warehouse out. You take that stuff down there and you bury it." I don't know where they buried it but they got rid of it and the case just kind of went away. Except they got Bruce [E.] Babbitt, he was the governor then, Castro had become an ambassador. So I signed that order and they took that stuff down and buried it. then whatever was left down at American Atomics, I think Bruce had the

National Guard pick it up and they had a convoy with radioactivity signs on it or something. They took it up and buried it near Flagstaff or someplace and the whole thing went away.

But it shows you how hysteria will promote lawsuits, especially if people are around saying, "Sign here, I'm going to represent you in this and we're going to get a big payoff on this." But it was just kind of a, well you can't say it was nonsensical case, but tritium, for the exposure that they were liable to down there, nothing ever came of any of those cases and that was the end of it.

Rauh: Did you have any of the civil suits?

Arnold: No. I didn't have any of them. I don't think any of the civil suits ever got off the ground. Harold Warnock could probably tell you more about that. See, he represented American Atomics. I can't remember who else was involved in the case, but we had a courtroom and they were all lawyers, they were all these agencies on this radioactive thing. And again, the news agencies and the newspaper, they just fed on it, see, and hell, everybody, you know people were afraid, they were holding their breath afraid to breathe the air down there on South Plummer.

I've really had some really interesting cases. You know, you try to go back and recall all of them. Because, see, I've been a judge for almost sixteen-and-a-half years now and at one time I'd sentence three hundred men a year here and when we were doing criminal and civil. But I've been doing civil cases for about the last five or six years, ever since we went to that individual calendar they just put me because that was my field mainly. The last criminal case I tried was the first Austin case.

Rauh: I'm not familiar with that.

Arnold: Where the young man went over to the university area there and cut his wife's throat. Judge [Harry] Gin tried the second case. The first case I tried in here. Bob [Robert J.] Hirsh represented him. He had the insanity defense and the jury came in with eleven to one for conviction for first degree murder. The next time he was tried it was twelve to nothing. One juror held up the verdict in here, see.

But I like to try civil cases, although criminal cases are very interesting, but I find that civil cases, as far as the law goes it's a greater challenge to a judge in a civil case. And the lawyers are, lawyers are not interested in screwing up the record in civil cases, they're there to get the case tried, get a good record and win or lose they go on to the next case. That's been my experience and I might get in trouble for saying that. But the civil cases are much more complex because every one of them has a different application of the law to it, see. Once you try one criminal case you've pretty well tried them all, except maybe you get that insanity defense for that temporary psychosis. A lot of people are having a hard time understanding that, but it's been explained to them.

Rauh: That's Bob Hirsh's . . .

Arnold: Yes, that's his _____.

Rauh: That's his forte.

Arnold: But when I started here, of course I was Division Fifteen, that was the last division. Now we have, what, twenty. . . . Yes, we have a lot of judges. When I came in Judge [Ben C.] Birdsall was still here and Judge [Jack G.] Marks was still here. Judge Garrett was still on the court when I came here. God, I hope I don't forget anybody. Judge [John G.] Hawkins was judge here. They were all, some of them have passed on, but they all came afterwards, see. But all in all it's really a challenge.

Like Bill [William H.] Tinney just came over here. Tinney's fifty-eight but he's an ideal candidate to be a judge because he's practiced law, he understands all the problems in a lawyer's life and he'll understand them because he's probably been through every one of them before.

This is what merit selection was supposed to have been. Merit selection has evolved down to a lot of people have got their favorite lawyer up here as a judge. A lot of people accuse that it's a product of politics, but I don't think so.

Rauh: Tinney was a good example of the system working.

Arnold: Tinney is a good example that the system works. And no system--see, we live in a time of real tribulation in governments and this country is really, you've got a lot of problems now and it's not perfect. But it's as good as there is around anyplace. All you have to do is to have lived someplace else where they had a different form of government and you can see the difference in it.

A lot of people say we have too many lawyers, but lawyers really they make people stand up and count everything straight most of the time, see. So I don't have any qualms about having too many lawyers. They'll thin each other out like anything else. Survival of the fittest. The good ones will stay and the other ones will go get a job someplace else. That's the economics of the situation.

Since I came here in 1975, when I first came to Tucson the gender was overwhelmingly male, see. The only female lawyers in Tucson was Rose Silver and Mary Anne Richey. I don't know when, I think Mary Anne came along and she was admitted probably about the same time I came here in 1953, 1954. There was another, Frances [N.] Wallace. She was a lawyer over at the city. But she worked for the government. But in private practice was Rose Silver and Mary Anne Richey.

Rauh: That was before Rose . . .

Arnold: Sure. And this was really the days before women's lib. Rose became the county attorney and Mary Anne became a superior court judge and later she went over to the federal bench. Very capable. I've tried cases before her, she's fair. Oh, Alice Truman was, I don't want to forget Alice. Alice took--and Jo Ann Diamos. They were contemporary with me. So there might have been five or six female lawyers in the whole Bar Association. Now there are a great many of them. Some of them are very, very good and some of them are very, very bad. The same way as the males, some of them are very, very good and some of them are very, very bad. So they bring something to the Bar that is very good.

These are the changes I've seen since 1950, see. When I practiced law in Saint Louis there wasn't very many female lawyers in Saint Louis, and in the fifties--you've got to understand, I'm talking the days before civil rights really became fashionable. The Brown versus the Board of Education didn't come along until 1954.

Rauh: Right.

Arnold: When I went to law school and grew up in a society where equal is constitutional, you know, the equal education, different facilities.

Rauh: The separate but equal doctrine.

Arnold: Sure and no one even thought about it. You know, you were too busy thinking about where you were going to make a living. But people came along and had some empathy towards people and since 1954--that's what, about thirty, thirty-seven years--we've had times of turmoil. Times are going to get better if they just corral these people who are stealing all the money in the country, you know, from the savings and loans and the banks and all the crooks that are there. There's bound to be a lot of crooks. I mean, people just don't get in that shape unless they're really taking advantage of their position.

But this is a great country. I feel, if I have one abiding feeling I'm just very grateful that I live in this country and that I've been able to participate as close as I have in the legal profession and then as a judge in the courts. You get a pretty good understanding of how the system works, and the system doesn't work on the basis of the high and mighty. The system works just on the basis that the ordinary person accepts the government, see.

You see a great example of it in the Soviet Union. If those people hadn't gotten out there in the square and let their voices be heard, they would have hung Gorbachev and Yeltsin both. But the people in mass stood up and they said, wait a minute, we're not going to take on the people.

The same way in this country. Some day the people are going to get sick and tired of how they're being represented by special interests and lobbyists and they're going to just stand up and say, we've had enough.

What's going to be the match that sets the conflagration off I don't know, but it will come some day. It will probably come at a time when there's a complete economic collapse of one sort or another and people don't have any money and they'll be able to then sit back in their deprived state and quit worrying about big houses and two cars and say, hey, what are we talking about? The constitution, what does it mean? It doesn't mean that some guy can be elected senator and take a million bucks from someone like we had that senator from California [Alan Cranston] and have everybody say well that's fine, that he's just doing his job.

People see that that's morally wrong.

And in your state government it's the same thing. When people really get back some sense of respect for the people as a whole, see, the body politic. But people don't vote anymore. People, they want to let somebody else do it.

Probably television is one of the detriments against our constitution and our republic. You're a young man. You'll see 2050. I won't see that. Well. . . .

Rauh: (laughs) It's possible.

Arnold: Well, it's sixty years. You'll live to be ninety years old if you stay in good shape. In 2050 you'll see a lot of changes. You'll see things, you'll be up and down on the roller coaster that you won't believe the things that are happening. But all you have to do is look at Red Square [in Moscow, Russia] yesterday or the day before when all those people massed out there. They would have hung Gorbachev by now if those people hadn't come out there and all that had been there was the tanks and the guns. But no more. And this is the great ignition for hope in the world that you see what's happening over there in Europe. And they're all looking to the United States. They're looking to this country.

Like the case we just tried. There were eight people in this case where the verdict just came in a few minutes ago. For the defense a very pitiful looking lady, but I listen to a lot of fall cases. She didn't have a case. I let it go to the jury. I could have just as well directed a verdict. Those eight people looked at her, they were all of them over sixty years old, six of them women. They're suing a McDonald's and they're talking about they've got an insurance policy. They know that guy sitting there doesn't have to pay for it. They say, sorry, you're not entitled to anything. Her lawyer's sitting there, he's not mad about it. He knows. He took the case and he made a mistake when he took the case because he thought that she fell on some ice. When he saw how the cards were being played, she didn't fall on ice. But that's the jury system.

The only thing a lawyer's got, when you think about it--you know, you don't have to respect any individual judge, but you've got to respect that bench because that's

the only thing that you've got that you can sell, that I can take you down to a place where you're going to get treated like a human being and you're going to get equal justice under the law. The minute lawyers, and I see a lot of lawyers come in there, and they refer to judges by their first name, their last name and they have no respect at all for the bench. And these are some very young lawyers. Sometimes I think the law schools sort of teach that a little bit. I don't know. But the only thing that keeps a lawyer going is, I could take you over to the courthouse where you can get a fair shake, you see. Does that make sense?

Rauh: Absolutely.

Arnold: So every lawyer has to inculcate in himself a respect for that bench. And the judges that sit on the bench, sometimes they might appear to be--you know, the old rules judges didn't go out drinking with lawyers, judges didn't go to lunch with lawyers. Judges have to stay aloof, they've got to stay back and have an air of mystery about them, and a lot of the young judges don't understand that, I don't think.

Rauh: There are a lot of judges that are enforcing some pretty hard-line dress codes and that kind of thing. You've done that.

Arnold: Well, I think that's important. It might seem kind of silly to tell lawyers, "You have to wear a coat," or, "You have to stand"--I have a rostrum in the courtroom. I put that rostrum in when I tried that second Miracle Valley case. I had seven lawyers, I couldn't operate without, I couldn't let every lawyer get down in the pit and do what he was doing and have two or three people come down and join him, see. So I had lawyers stand at that rostrum, and they looked more professional.

Tape 1, Side 2

Arnold: Well, see, sometimes you see lawyers come to court attired and it's hard to tell whether they're on trial or whether they're there as counselor. So I don't know. Another interesting thing I'll tell you, when I was the Democratic County Chairman I had a unique experience that's never been repeated, to my knowledge, before or since. The ballots had been printed and the general election was coming up. A fellow by the name of Carroll [H.] Christian was the county--was he the recorder?

Rauh: He was in charge of elections?

Arnold: He was the county recorder, but he was running for election. He dropped dead.

Rauh: He died right in . . .

Arnold: He died, see. And really he was a very decent man. He died and so they were wondering how to--the Democrats, he was a Democrat. So the Democratic Party met at the Carpenter's Hall or someplace down here on a Saturday, and the law provided at that time, probably does now, the party had, we had a nominating convention and they all stepped up and they voted who was going to be the nominee. You talk about trying to control a madhouse, because they all wanted that. It was a good job. So when they had--the fellow who was the deputy, his name was Bob, oh god, I can't. . . . Anyway, his first name was Robert and there was a fellow by the name of Bill Dumas. Everybody wanted the deputy, Carroll Christian's deputy to go on the ballot because he had more identification. He was a Hispanic guy. So Dumas and he ran down there and they had a pledge that whoever won would support the other guy. Well Dumas got beat. They party faithfuls--there must have been three hundred people there--voted Bob, I kind of

think his name was Rodriguez. He was really an older man, been there for years, and he was the nominee. When the election came, Dumas went in as a write-in candidate. Jim [James L.] Kirk is the--it was the county treasurer's post.

Rauh: County treasurer, all right.

Arnold: That's right. Carroll Christian was the county treasurer. So Jim Kirk is the county treasurer now.

Rauh: That's how he got elected, and has been ever since.

Arnold: Sure, and has been ever since. But I served as a city prosecutor under Don Hummel and followed Freddie [Alfredo C.] Marquez into the . . .

Rauh: You were in the prosecutor's office?

Arnold: I was the prosecutor. It was a part-time job. I got three hundred dollars a month for it. Jack Marks was the city attorney and Don Hummel was the mayor in the old City Hall.

Rauh: What years was that?

Arnold: Well, I can't remember. That had to be in the late fifties or early sixties. I was the only city prosecutor. I'd go down there in the morning. They had a little tiny office, they didn't have a file cabinet and all the complaints, the girl, her name was Clara Garcia a real jewel, she would draft these complaints and put them on the floor under the desk. I'd come in, sit down and reach down under the desk, pick them up and put them on it then go in.

We had two judges, Jim [James M.] Howsare and William [E.] Kimble. Kimble had been in the state senate and he had emphysema pretty bad so he came back here and they put him on as a city magistrate. That's Richard Kimble's father. Really a grand guy. He and Howsare were the judges. One would take the morning session, one would take the afternoon session. I had a full law practice

and I got three hundred bucks a month for being the city prosecutor.

Rauh: You prosecuted every case?

Arnold: I'd go in there in the morning. Most of them were transients or there were a few
DWI cases. I'd try the morning cases and then when Stan [Stanley W.] Trachta, Sr.,
he's eighty years old now, came to town . . .

Rauh: With Molloy, Jones.

Arnold: He's with Molloy, Jones. This had to be in the early sixties, I guess. When Stan
Trachta came to town, Stan would use an assistant city attorney and Stan would do
the afternoon cases. In that year I tried everything over there for them in the
mornings. I tried fourteen jury cases on appeals in superior court and one case, the
State versus Robles, I went to the Supreme Court. And I was there one year for
three hundred bucks a month.

And the state, the case I went, the Frank Robles, who was a state legislator, who
was a real, very interesting man and he was continually feuding with Bill [William R.]
Mathews who was the editor of the Star at the time. He and Mathews would really
used get into it and they'd accuse each other of the most heinous things you could
think of.

Well, Robles went down here to Carrillo School and they charged him with violating
the fifty-foot limit, the old, you know, you can't. . . .

Rauh: Right.

Arnold: He actually went in and looked at the back of the voting machines, see. So we
tried him in city court and convicted him of it. Then we went over and we tried him
in Division Three and convicted him before a jury. He asked for a jury trial and got
him a jury. He made his final argument on his knees and he reached in his vest
pocket and pulled out his handkerchief and his rosary flopped out on the floor.

(laughter) I think he later became a Protestant minister. But he threw that rosary out on the floor. Then he took and appealed on to the Supreme Court. So we argued that case and it's in the law books if you look it up and it's for violating the fifty-foot limit, you see.

I went up to Phoenix, I don't know how I got up there, but I saw Lucy Palermo who used to be a real good friend of mine and Joel [T.] Brown who's still giving speeches over there for the city council, he's about ninety years old now. I said, "I don't have a car. Can I ride out to the Supreme Court with you?" This was down in front of the Luhrs Building. They said, "No," they wouldn't ride me out there. So we went out and we argued the case and the Supreme Court affirmed it and that's the only case on that subject.

Rauh: On the fifty-foot limit?

Arnold: Yes. I was county chairman the first year that Sam Lena got elected for the State Senate. He ran against a fellow by the name of Ernest Garfield. Ernest Garfield accused, after Sam Lena beat him, Ernest Garfield accused him of irregularities. It was coming time for the Senate to assemble and with that accusation he may not be settled. So Sam Lena called me up and said, "You do something about this." So I called up Walter--oh, god, what was his name, he was with Ashby Lohse and I know his name as well as, Walter Kemp or Walter--and I said, "Can we talk about this?"

So we talked about it and I said, "What the election need to be done, is they need reformation. So why don't we form a committee and we'll get rid of your complaint and then we'll reform these laws." If you look back, that was probably 1960--see, I didn't look up all these dates. I went to Phoenix, god, I don't know how many times. Dick [J. Richard] Hannah, who is on the court now, Dick Hannah was nominated by

the Republicans to be on the committee and Walter Fathauer was the Republican chairman. We went up there and we met with that committee I don't know how many times. I felt next time I'm going to keep my mouth shut and let Sam Lena solve his own problems. Anyway that Ernest Garfield, he later ran for state treasurer and I . . . He might even have been the state treasurer one term. I forget.

Rauh: I think he maybe was.

Arnold: Garfield. Well, he was a state senator _____.

Rauh: That's what he was.

Arnold: It used to be that party politics in Pima County used to be really quite active. You'd have a meeting and it wouldn't be anything to get three hundred people out for it, four hundred people. We used to fill the main ballroom over there at the old Pioneer Hotel, and such people as, you know, Marvin [S.] Cohen was very active. Marvin was with the Bilby firm and he's a very prominent, you know, he's head of what? the FCC or the FDA.

Rauh: Right, something like that. FAA I think it was.

Arnold: The FAA. He was head of the FAA. And Marvin's now a big-shot lawyer up there in Phoenix. But Marvin was, you know, he was very active. Tom Chandler was very active, Freddie Marquez very active. And then they had the Republicans and they were really a very active bunch of people in that Republican party, see. But then what happened in the politics around here, Mo Udall would come back well before the election and he would have fund raisers. He would siphon off all the damned money out of here, see. He'd take all the money and then the senator would come along and he would take the rest of it. There wasn't any money left for the rank and file to do anything with. And you know you have to have some money to operate. They sort of formed their own parties, as Mo Udall's party. Mo

never really, he gave lip service to _____ I should say, but he really never was much of a party man. Once he got elected and got established they had all the fund raisers and took all this money out of here. The same way with Dennis, he comes in and people give him the money, see. So local candidates, they have a hard time raising anything much.

Rauh: Raising any money at all.

Arnold: Sure.

Rauh: You worked for Castro on his election, didn't you?

Arnold: Yes. I worked very hard for Raúl Castro. I knew Raúl, he was a partner with Dave Wolfe when I first came here. Raúl and I and Dave--Dave Wolfe was in the legal office out there--and I met Raúl. Raúl Castro is the most remarkable man that I've met since I've been here. He's been the county attorney, he's been a judge, he's been the ambassador, he's been a governor and the guy's never changed one bit. He the most decent man that I know and he's the same to his friends and everybody else, the same as he was when I first met him in 1952. He really is. If you know Raúl you'll know what I'm talking about. He's just never--you know, he's been ambassador to Argentina, he was the ambassador to San Salvador and he was in Bolivia.

I've tried cases, I've never won a case before him, when I appeared before him, because we were friends he'd bend over backwards. I finally came to the conclusion I'd stay the hell out of there because he'd bend over backwards to be fair and decide for the other guy. (laughter) But he really is a very decent, honorable guy. But he never changed. You know, you'd get, you know, if you'd be an ambassador and a governor you'd probably get big headed. But he's just the same straight guy. He must be seventy-five years old now.

Rauh: He must be. Yes.

Arnold: Tom Chandler was a good friend of Raúl's. Chandler's one of the most decent men I've ever met. A lot of people they don't know Tom Chandler real well and they say things about him, I suppose. Not really, I'm being facetious now. But Chandler's really a decent guy. he'd go the last mile for a stranger. But this town's full of good lawyers and good people. I don't know if I have any enemies, but I don't think I have very many. A lot of people maybe don't like you for one reason or another, but. . . .

Judge [James A.] Walsh was a good friend of mine. I jogged with him. You know he had his heart attack and I was about forty years old, that probably would have been in 1960 or 1961, and I started feeling that I should start getting some exercise so I started going out to the park. I lived over on Third Street at the time and I'd get in the car and I'd drive over and I'd start running around those practice fields in Reed Park there. Doctor [Richard L.?] Dexter brought Judge Walsh and Bill Felix and those guys out there and suddenly there was a whole crew of people. We'd meet out there three mornings a week and jog. So I knew Judge Walsh pretty well before that, but you know he . . .

Rauh: You became his jogging partner.

Arnold: Well, sort of. And hell, he'd read the paper before he came out there in the morning, he knew everything that was going on. And contrary to popular belief he had opinions about a lot of things. But he was--I suppose you got him on tape. Have you got Judge Walsh on tape? See, he really was a remarkable guy because he could tell stories way back to in the early days in Phoenix and about Francis [J.] Donofrio and Snell, you know. He came out here from Georgetown. But he was really, you know, just a, he was a different type of people. When he passed away,

people were, they couldn't understand him because he lived in the same house from 1952, lived out there in that Hoffman house, never moved up in the foothills like some of us and he had the same lifestyle, he was such a decent humble sort of a guy. Besides, he was the law here from 1952 until they established that second division. But a nicer guy never came around. A better lawyer. But what really amazed people, they couldn't understand him. All the people that talk about how amazing he is, they just don't understand the kind of guy he was.

Bill [William C.] Frey, I knew Bill Frey very well. Bill was on the court here. I knew Bill when he was, he ran for congress, you know. Then he was a superior court judge here. I've tried cases to him. Then he went over to federal court. He'd call me up _____, and he always, he'd light into something and man, he'd call up and he'd be, "What the hell do you think about this? I just read this and that sonofabitch did this or that." Bill was that kind of a guy. He was right up front, he wasn't afraid to say what he thought.

Nowadays most people are afraid to say what they think, they're afraid to have an opinion because they're afraid somebody will disagree with them. If you don't have a voicing of opinions in a country like this you don't have anything, because people always stop and wait, they're going to wait and hear what you've got to say. Of course some of us talk too much. (laughter) But you've got to be able to say what you think so someone can disagree with you or agree with you. You've either got a consensus or you've got a hell of a fight on your hands.

Even on the court here, the worst thing about being a judge is you sit by yourself and you don't get to talk to anybody. You don't know whether you're doing a good job or a bad job or a mediocre job. You don't know whether people hate you or people love you. You just don't know. That's the bad part about being a

judge. If I had it to do over again I'm not so sure that I'd even come up here.

Rauh: Really? You think you'd stay in practice?

Arnold: Yes. There's some good parts to being a judge, you know there's not as much pressure, but I sometimes think there's nothing better than being a successful lawyer. You know, provide for your old age is all, but hell, you can keep on--see, I'm going to retire in November. If I was a lawyer I wouldn't be retiring, I'd be still sitting out there, probably fighting to make a living so I could eat. (laughs) I wouldn't even be thinking.

I probably would be a lot happier, because I'm really not looking forward to retirement because I don't know what the hell I'm going to do. A lot of people say you can go home and you can sit down, and then other people say well you have to have some plans, but every guy that I know that's retired, they always tell me how busy they are. Then you say, well let's go through a typical day. Most of them don't get beyond breakfast, see.

I'm going down to New Orleans in October and meeting with my old B-26 group from World War II that I flew with for two years. Most of those guys have been retired, hell, for twenty years. A lot of them stayed in the air force and they're retired colonels or. . . . A lot of them got out but damn near all of them are retired and they can't understand why I'm still working, see. But then when they tell me how busy they are and I started going through their daily schedule and it doesn't look to me like they're doing much but sitting around. Maybe play a little golf. That's about the main thing, they're playing golf or doing something like that.

Rauh: What do you plan to do with your time?

Arnold: I don't have the slightest idea.

Rauh: Are you going to be involved with county politics?

Arnold: I don't know. There are a lot of things you can do and I don't think I'm just going to sit back and I just may take up a cause. I don't what it's going to be.

Rauh: You're pretty active in your church still.

Arnold: Sure, I'm active in the church and the church has been really a part of my life. With my kids, seven of the kids are here, you know there's Tom and John and Mary and Rose and Kathleen and Dennis and Michael. Dennis is opening that Gentle Ben's over there.

Rauh: He's gotten that bar over there.

Arnold: He's going to have a big brewery over there. Like he says, it's a hell of a role of the dice, but he never can tell what he's going to do. But those kids still come around and I'm very interested in them. We still talk and I get along great with John's mother Dorothy, you know. It's the happiest time in my day when I get up in the morning and see her. You can't get much more out of life than that. But what I'm going to do when I retire, I don't know.

I was thinking, well, you're going to come over here today and I was just thinking about cases, but they all run into each other. You know, there were some years I've tried forty-five jury cases in this courthouse.

Rauh: In a single year?

Arnold: Sure. If I take back the sixteen years I've been here, and I probably have tried at least thirty, between thirty and forty cases a year, that must be five hundred jury cases, plus or minus. Besides what I tried as a lawyer, besides all the other court cases and the times you met that docket out there. And you see all kinds of people and you see all kinds of lawyers.

But things have got to change, because in the law, it's getting so expensive to come to court and it's getting so expensive for a litigant to come to court. See,

when I first started practicing here you didn't get Title Twelve fees, everybody paid their own lawyer. When I started practicing law here if you got in trouble, you paid your lawyer and everybody seemed to get lawyers, even the petty crooks. They all had lawyers. And if you got appointed for a case then you got twenty-five bucks. If you tried a case you got seventy-five dollars.

I tried a case over there one time before Alice Truman years ago. It was first-degree rape case. A very prominent guy. The father came to me and he said, "God, this kid, he doesn't have a lawyer and I can't afford it." I said, "I'll take it," see. Because they didn't have public defenders. I tried the case and Alice Truman said, "Are you getting paid for this?" Because she recognized. I said, "No." She said, "Well, I'll give you seventy-five dollars." I tried the case for about three days and hung the jury eleven to one for acquittal. The kid later committed suicide.

But you sat over there and you'd take cases for twenty-five bucks. That's what you got and that was it. But now it's gotten to the point where if you have eight dependents you can make over sixty thousand dollars a year and you don't have to pay for your lawyer. They've got a new schedule coming out. They appointed a new commissioner. But they have to pay for it, you see.

But if an individual wants to come down and he figures someone grieved him, you could end up paying, some judge can look and say, "The attorney fees you have to pay is ten thousand dollars because you lost this case." That's a catastrophe for most people. So they can't afford to come to court. The answer to that probably is a lot of these things are going to arbitration. But a judge should really think a long time before he lays that heavy burden of attorney fees on people because, you know, we have lawyers, especially some of the big firms, they come in, you know, they'll ask for fifty, seventy-five, a hundred thousand dollars worth of fees against

some other business. It can ruin the business. So most people are very cautious about coming to court, but yet the cases are flooding in here.

Rauh: Have you noticed a steady increase in the number of . . .

Arnold: Well, if you just look at the statistics you can see that there's a steady increase in litigation. But most sensible people don't come over here to solve their problems. They either go to arbitration or they work it out, because if you lose a case, unless you're really a big business, it can be disastrous. I see some of these bills for attorney fees, the lawyers are just pricing themselves out of the business. But that's probably going to be part of the thinning out process, because lawyers are operating in big firms so they have expenses. I don't think lawyers are certainly not overpaid from what I hear what the salaries are. They're, no, they're really not, for what they do. But you take a firm that's got a hundred lawyers in it or fifty lawyers and they've got a lot of space, they've got, god, you're talking about multi-million dollars. Who's paying it. And that's the law business.

If you ever stop and think about all the money that's going into the various public defenders and the county attorney, and then you look at all the contract lawyers for the representation of the indigent defendants, that's millions of dollars. I mean it's enough to fund part of the school program. But the taxpayers are picking up the whole thing. A fellow comes out and he breaks a window in your house and rifles it and steals you blind, then you have to come down, and you've got to pay for his defense, because of Gideon, they say.

But there's got to be some other way to solve this. And if they solved it by telling the lawyers, you've got to go back to the old system and you've got to come in here for the honor of practicing law, you've got to come in and represent these fellows. But then you've got some appeal court that says he's entitled to perfect

representation and then come along ten years later and say the lawyer was inept and inefficient counsel.

The judges are making those rulings with the idea that this system is going to be made perfect. It's never going to be made perfect, any system where there are people involved. People play fast and loose with the truth, you see. They come back now and, you can come back sixteen years later and claim that some judge didn't take into consideration the fact that your mother was mean to you or something and he should have taken this into consideration. So you're entitled to a new trial, sixteen years later. Do you know what I'm trying? I'm just trying to make it as plain as I can.

Justice has to be final some day. But judges sit on courts, on the federal courts, they block sentences on the basis that they know better than anything else, you see. And they start the whole round robin again. And do you know what this is costing? It costs hundreds of thousands of dollars. The American people really don't know what that system is costing, because the costs are spread out a little bit. It's costing multi-millions of dollars to run this system on the basis that it's going to be perfect, and it's not going to be perfect. And no way you're ever going to make it perfect.

But then you go back and it all depends on whose kid is on trial.

Rauh: That's right.

Arnold: And this is what you get into. I suppose most appeal courts want a trial for any defendant the same as their own child would get. But the system has got to give way under this sooner or later, because we won't be able to afford it. You take the national debt, it's what, in the trillions of dollars now. All the banks are going busted, the S&L's [savings and loans] are going busted. Who the hell is going to pay for all

this? You really can't, can you, decide who's going to pay for all of it. Your kids are going to pay for most of it. You're going to pay for it.

Anything else you want to ask me about?

Rauh: No. I think you've covered it.

Arnold: Well, I hope it's been interesting.

Rauh: It certainly has and I really appreciate it.

Arnold: It's great. I have the utmost respect for lawyers and I see young kids in here practicing law, trying to make a living, fumbling with cases, you know. Somebody brought it to them that no one else wanted, they're in there. God, they look at you with a straight face and talk about that case. I could tell them, I know what you're doing.

I had a kid in here the other day and he didn't want to go to trial and the other lawyer had a motion to compel that said, he hasn't done this and that. I said, "No, what he's doing, he's just gotten the case and he's trying to size it up to see whether it's worthwhile for him to go hire expert witnesses." He just nodded his head, just like that. I said, "I'm going to give him a continuance because it would be unfair to make him go to trial until he makes up his mind what he's going to do with the case, see if it's worthwhile to try this case." Because I knew there had been an offer made on the case. But the other lawyers had got out of it because they couldn't hack it.

This is why it's important that they get judges over here that have some experience that can understand where a lawyer's coming from, because usually you have to sit there and figure what the unspoken agenda is. It tells you more than anything. Because there's always an unspoken agenda in a lot of these cases. A lawyer asks for a continuance it's more than that, they're trying to figure out something else on

the case. You know you can't drive a lawyer into a corner that he can't get out of.

Let him do it to himself. The judge shouldn't do it to him.

Rauh: They usually will.

Arnold: Sure. They really will. But the system really works if it's handled right, see. Trial by jury works, the whole thing works unless people corrupt it. Because it's just a well thought out system. You know, the country's what, two hundred twenty some odd years old or just almost, two hundred and ten years or five years or something. From 1975 until, the Bi-centennial, see.

But that whole thing, it has its ups and downs and you're going to see it's really on a spin now. But always remember it's not perfect and there's no way you can make it perfect. But a lot of judges try to make it perfect, by some of these decisions that you read. The burden is--see, even justice is not, justice is, it's paramount in the country, but gee, you can't neglect everything else and put it over on a system like this. You know, old Percy Foreman used to say down there in Houston that part of the punishment for a guy that committed a crime was paying his lawyer. (laughter)

But no one pays. These defense lawyers now, they're talking about, this is big money.

Rauh: That's true.

Arnold: You check over here some time at what they're paying defense lawyers on these contracts. And those big firms will get right into it. Sometimes I think we'd be better off if they'd put that business over with some of the big firms and let it run like a law business, see. But they come along and they take kids out of school and they put them over in their first job as a public defender. Then they come along five years later and say he was right out of school and didn't know anything and I want a new trial. You see that all the time.

Rauh: Catch twenty-two.

Arnold: Sure. But it's about the best system in the whole world. Like I say, people are standing in line trying to come in here. The whole thing's going to shift so much in the next. . . . In your lifetime you're going to see a lot of changes. Some of them will be good, some of them will be bad. So what are we going to do?
Do you want to know anything else?

Rauh: Judge, we really appreciate it. Like Pablo said, we'll get a printup and you can take a look.

Arnold: Well, good.

End of interview.