

WILLIAM A. HOLOHAN INTERVIEW

Silverman: [My name is] Kay [S.] Silverman and we're beginning the oral history of William Holohan. Today's date is September 6, 1991. [Pablo Jusem of the Arizona Historical Society is also present.] Justice Holohan, could you tell, me what is your full name?

Holohan: William A. Holohan. The "A" is Andrew.

Silverman: Andrew, William Andrew. And I said your name wrong, after I've already practiced it. It's Holohan, is that correct now?

Holohan: That's correct.

Silverman: Okay, good. Where were you born?

Holohan: Tucson, Arizona.

Silverman: And your date of birth?

Holohan: Let's see, June 1, 1928.

Silverman: All right. Can you tell me something about your family? Your grandparents?

Holohan: Well, let's take my dad's side. They came from the state of New York. My grandfather came from the, the Irish side, his people came over about the famine, as so many of the Irish did. They settled in northern New York, up around Niagara Falls and in that area. My grandmother on my father's side, her people came from Germany. Her father actually came from Alsace-

Lorraine and of course during World War I he was French, but as the old Germans in Springle used to say, and his name was Andrew, "Andrew, Ich bin dein Deutsche." Andrew, you're German.

So Grandma and my grandfather were married in Springville, New York, a little town about forty miles south of Buffalo. My grandfather was working on the railroad, he was probably a brakeman at that time. Various things happened and they decided to head west. They stopped in Colorado for a few years and wound up coming down into Tucson, into Arizona. My father was actually born in Springville. There was one daughter, but she didn't survive. She was a few years after my dad. But I think that she only lived maybe a matter of months.

So they settled in Tucson, Arizona. My grandfather was on the SP [Southern Pacific Railroad], eventually as a conductor and then eventually retired and, oh, did various work around Tucson there.

My grandmother worked for an Indian curio store in late years, a fellow by the name of Petty that had quite a thriving business.

Silverman: We'll stop for a minute.

Tape 2, Side 1

Jusem: That would be great. I could do that.

Holohan: Okay.

Jusem: That's okay, sir?

Holohan: Sure.

Silverman: Are we on?

Jusem: Yes, we're on.

Silverman: Okay, this is Kay Silverman. We're at Justice William Holohan's office doing his oral interview. Today's date is September 6, 1991. Justice Holohan had started his family story, about his grandparents. I believe we were talking about your grandfather? He had two sons?

Holohan: Yes, on my dad's side. One of the Holohans. Do you remember where you left off?

Holohan: Yes. I was talking about my grandmother had worked in the Indian curio shop run by Petty in Tucson. She worked there for a number of years. Then after my grandfather died, she remarried and also retired from the sales work too. Interesting enough, she married a railroader, too.

On my mother's side, her family, her grandfather came out to Arizona sometime, probably before 1870. His name was Lindsey, Morris Lindsey. He came out with his brother and they started out, arrived in

Prescott. It looks like they were doing some kind of clerking in one of the stores and eventually they bought some land and they went into vegetable gardening. Since the both of them had been farmers in Illinois, I suppose that was only natural. For a number of years there was a plot up in the Prescott area that was know as Lindsey Gardens. But the older brother must have gotten homesick, so he went back to Illinois.

But Morris stayed in the Prescott area. Eventually married and had two little girls. His wife died soon after the birth of the second child and Morris died probably within a year after the death of his wife. It probably would have been an interesting love story there. From some of the family accounts there, she was a pretty young girl and that he worshipped her. There were the two little orphans then. The oldest was my grandmother, later to be Fannie Bennett, at that time, of course, Fannie Lindsey. The younger child was Cora, later to be Cora Brown. They were placed under the guardianship of a friend of Morris's there, an old gentleman whose name I don't recall at the moment. He took care of them until the sisters established the academy, Saint Joseph's Academy in Prescott. He brought the girls up to the academy and

they were enrolled there as boarders in the school and that's where they spent the rest of their time until they graduated from high school as young ladies.

My grandmother had a good basic high school education and had been taught piano by the nuns and could play a decent piano. When she graduated from high school her first job, well, teacher. (laughs) She didn't have to go to college there. One of the small school districts that were around the Prescott area there hired her on as a teacher. Somewhere in that period of time she met a fellow by the name of Charlie Bennett and that was Grandpa.

Charlie Bennett's family had come out of, of all places, California. The last place, and where Charlie and his older sister were born, was Half Moon Bay, California. Parenthetically, a lot of this you have to thank my wife for, for looking up about the family.

They came, Charlie Bennett's father married a Alvina Rodriquez, an old Spanish family in the area. We don't know very much about them because it's been a little difficult for us to trace that. Sometime maybe we'll have some time. Again, family myth was that they had at one time, the Rodriquez', had had

land grants in there. But since she was one of the youngest of the family, she probably did not have much of an inheritance. Anyway, she and her husband brought the children, Charlie and the others, to Groom Creek, Arizona, to do ranching. Apparently Alvina had some respiratory problems and the humid climate in California around the seacoast there in Half Moon Bay just didn't set well. So they came into Arizona probably around 1875 and settled in the Groom Creek area.

Time goes by and Charlie Bennett grew to manhood and he married Fannie Lindsey. And the third child of that union was my mother, Dorothy, Dorothy Lucretia Bennett. She never used the Lucretia, but we all--that's the first thing kids do is try and find out what your mother's middle name is. She was born in Prescott, Arizona, and for the most part grew up in that area. The family did go over to the Clarkdale area when the smelter was being constructed and Charlie worked in a mercantile store as a clerk.

After they'd been in the Clarkdale area for a number of years, then they moved back to Prescott. I don't really know very much about what all went on in those years. Come to think of it though, my mother did graduate from Clarkdale High School, she and, I

guess, a huge graduating class of about six, one boy and about five girls was the way they seemed to be doing it.

My mother was born in 1904, of course in Prescott, and my dad was born in 1905 in Springville, New York.

My mother left the Prescott and Yavapai area and went to California. Her older sister had also gone over there and had taken some business courses and was learning to be a bookkeeper, I guess as they called them in those days, and clerical.

My mother went over to enter nursing. She went into her nurses training at what they called at that time the Old Saint Vincent's Hospital. I've forgotten where the location of that is. But while she was still in training they were building what is the current or, as she used to call it, the New Saint Vincent Hospital. I think she was probably the youngest one in her nursing class. In those days that was a hard profession, the nursing. There was no such thing as a forty-hour week and twelve-hour duty was very common. Many of the women that were entering the nursing profession at that time were widows who had children. It was one of the professions at that time that women could legitimately enter and they the respect. Quite

different nowadays. So there were a lot of people in her class that were much older and had been married and had children and the like. But I think that may have been why, being the youngest, the sister superior used to take her, my mother, with her when the mother superior would go over to look at the new hospital, how it was going. Sister Mary Ann, by name. And as they say, nothing got by her. (laughs)

I don't think she needed aid of the architect there. She probably knew every piece of material that went into the place there. And my mother used to get to traipse along with her, which was not all that much fun when Sister decided to get on those outside elevators to go up and look at some of the higher floors. That was less than a treat.

But during the course of her training or maybe shortly after, my mother came down with what was diagnosed then as a touch of tuberculosis, or just plain tuberculosis at that time. I wonder about the diagnosis. But anyway, where would they send her? They sent her back to Arizona. So she went to Tucson. In Tucson, she was at Saint Joseph's Hospital there. She quickly recovered her health, which kind of raises the question about that diagnosis, but who knows.

So she went to nursing as a profession and met my dad and hence really starts my history there. So they were married in Tucson, Arizona, June 1, 1927. On their first anniversary I arrived, June 1, 1928, born at the Stork's Nest, a little maternity hospital in Tucson, Arizona.

My dad was, by trade, a printer. About that time the linotype was coming into use and the print shop that he worked for had decided they were going to buy one of those contraptions. Mergenthaler, the manufacturer, had a deal that if you bought one of their things they'd train your operator. So they had my dad bundle up the family and we went to San Francisco because that's the only place that Mergenthaler did their training. So for the several months that that took, why, we were in San Francisco.

Obviously I don't remember a thing about that. I couldn't tell you there and that's just family lore about what all took place there.

Then back to Tucson where he was the linotype operator at the old Acme Printing Company. We rocked along that for a while and he got ambitious and decided to get his own print shop and managed to pull it off. Among the accounts that he had was with the Diocese of Tucson. I think at that time they were

putting out some sort of a little paper and that he had the contract. Somewhere along the line I think the Bishop decided he wanted to do his own printing and have his own print shop, so he bought my dad's print shop.

We're now in the good old, if you can use that terrible term, depression, because that would have been probably about 1932, 1933, something like that.

Here my dad had cash that paid for the print shop, but there was no business that you were about to get into.

About this time my grandmother in Prescott still had an interest--among the things that my grandfather on my mother's side did, he did a little prospecting. What Arizonan hasn't? And he had the so-called Fabulous Bennett Mine, out in Groom Creek. It was really a tunnel site. So Grandma said that, "Why don't you come up and go to mining?" Grandfather was dead by this time. "There isn't much else to do." So my father was game and there was another fellow down in Tucson, I only remember his name as Charlie, and the two of them entered into a partnership. Charlie knew something about mining, my dad didn't. He was a printer. So he quickly found out about callouses and things like that and swinging a pick

and using a shovel.

They went up to, and the family went, to Groom Creek and that was a boy's dream. I had a German Shepherd pup and I had the whole Prescott Forest to roam in there. I probably was about five years old or something there. Nobody was getting pushy about kindergarten or something like that, so that was great with me.

We spent, oh, six or eight months there and found out something that Charlie Bennett probably had known for a long time: there was very little gold in there.

(laughs) I think the total product was a button size of metal that they had managed to get out of tons and tons of ore that they had gone through. So, what did my dad do? Went back to printing.

The Journal Miner was still in existence in Prescott.

That roaring town had two newspapers. You had the Courier, which was the evening paper and the Journal Miner was the morning paper. Nobody paid any attention to this burg Phoenix there, and their newspapers. Why they didn't know anything about what was going in town. Besides, Prescott was a pretty big city in that era. So he went back to printing and worked there.

It's a little vague to me, but the next thing I know,

he was all involved in labor politics. Those were the times when they were, the labor movement, [Franklin Delano] Roosevelt had come in and the labor movement was on the move. They were making their way and workers were joining unions to get their wages and get job protection. And dangd if the next thing I know, we were down in Phoenix. Let's see, that would have been probably about 1934 or 1935, somewhere in there. By this time they figured I had to go to school so they enrolled me in Saint Mary's and see if the nuns could get the rough edges off and pour some education in.

My dad actually was elected the secretary of the State Federation of Labor. Now in that era, that job was not only doing that work, which was sort of a statewide business agent for unions, but he was also the editor of a little labor paper that they put out, the Arizona Labor Journal. That may have been one of the reasons why he was elected to it because they figured well, who better than a printer can put out the newspaper. They only paid one salary for both tasks. And once a week that labor paper came out and he used to have to sell the ads and make up the composition of it. It was printed at the Alison Printing Company, over, right across the street in

those days, from the Phoenix Union [High School]. The Mercado sits in the area where the old Alison Printing was.

So those were kind of exiting times. As a kid I didn't really know much about what was going on. He had to do a good deal of traveling and sometimes there were sort of scary things that came up. I know every once in a while he put a gun in the glove compartment of the car when he went out. Things were a little calm one time when the National Labor Relations Board sent one of their people in there and went around with my dad on whatever kind of a strike problem that had come up. It was either with the Labor Board or with the Department of Labor. But that was a little quieter.

Then apparently there was difficulty between my mother and my father, so they separated and she went over to the coast and went back to nursing. There was one period of reconciliation, but apparently that didn't work, so they were separated and then from then on each went their own way. This probably brings us up to somewhere around, oh, 1937, something like that.

So for the next number of years except for summers and things like little vacations that I had with my

dad I was what I like I to call a prune picker. I was a Californian. I finished up grammar school there and went to Loyola High School in Los Angeles.

That was probably the best education I could have had, from the Jesuits. They were a good bunch. A lot of them were tough, but there was no monkey business and they were very much concerned with preparing you for college and for higher education, professions. They told you right up front that they were not interested in training you for other occupations. If you wanted to do that why there were a lot of good schools around, but theirs was an academic course, and now let's get at it. That's about the way they ran the operation. They tested you there. They had a good sports program. I was mildly interested in that. They had other activities too, they had good debate clubs, and they always had their theater. At least they produced a couple of those every year there. We always tried to lobby for it to be a comedy because those were the easiest ones for you to, if you goofed nobody really knew very much about it.

After high school, I went one year to Loyola University. There was always the problem of finance in there. They had a very reasonable tuition. I

have to smile, anybody that had gone to the high school always had time payments, so when you went out to the university, while they said that you should be making the full payment up front, why you didn't. You went on your time payments just like you'd always done there. The poor father-treasurer would shake his head, but they never were all that pushy. That's contrasted with when I went to the U. of A.

[University of Arizona]. There was no question there, it was money on the barrel head and up front. At about a year at Loyola I had gotten enough information about the U. of A. Law College to know what the requirements were for that. So I transferred over to U. of A. and finished up the undergraduate requirements for entry into law school.

I think went into law school about 1948. During that period of time we had, all the veterans were coming through. I had turned eighteen about the time that the war, World War Two was over, so the military had no interest in me. But I was going through college the same time as all the vets were doing it, in the crowded years. It was a nice time.

You didn't have all that silly business with the freshman beanies and things of that nature there. They were a very serious group that were going

through there. They'd made up their minds about careers and so the fun and games was by the side. Great sports enthusiasts though. We don't want to downplay that. But some of this other so-called tradition, they looked on as sort of silly, and where you had that many, why there wasn't any pushing to get it done. In law college . . .

Silverman: Let me interrupt you. I want to take you back a little bit further.

Holohan: Okay.

Silverman: When you were in high school, were you thinking about a law career at all at that time? What were your interests then?

Holohan: I was very much interested in law. Probably about sophomore in high school I had pretty well decided that I was going to be a lawyer.

Silverman: How did you make that decision?

Holohan: Well, that's kind of interesting. I had always been interested in government and the science of government, history, and interested in court cases and things that were happening. I had kind of held back thinking, "Well, I'm not clever enough to be a lawyer." And there, the wisdom of the dad came in there. He said, "Bill, anybody can be a lawyer."
(laughs) And he said, "I've seen some real good ones

and I've seen some real bum ones." And that, "It's a question of applying yourself and using the talents that you have. You can do it. It's all right. Go ahead, if that's what you want to do."

Silverman: So your father really influenced you in that decision?

Holohan: Yes he did. Yes. Because mother, of course, was interested in medicine. I had a mild interest and I enjoyed hearing a medical case tried, but I . . .

Silverman: Now, was your mother still nursing at that time?

Holohan: Oh, yes. By this time she was a head nurse in one of the floors over in Good Sam. She was a very . . .

Silverman: Are you talking Arizona or Los Angeles?

Holohan: In Los Angeles.

Silverman: Oh, there was a Good Samaritan [Hospital] over there?

Holohan: Oh, yes. Yes, quite a large one.

Silverman: And your father was still doing labor work?

Holohan: Yes. He was no longer with the state federation. He was with the culinary workers by that time, organizing work around the country for them. A couple of summers I spent with him traveling around there and the . . .

Another person that we probably should touch on now was an uncle. My mother's oldest sister was Eileen Seaman. She married Dan Seaman. They lived in

Prescott. Dan was a printer and they worked for the Courier. Eileen was the bookkeeper and secretary and what have you there at the Courier and Dan eventually became manager of the Courier. He's a very, very interesting man. He'd gotten his start in the days when Governor [George W.P.] Hunt was coming to the fore. Dan had been one of his strong and early supporters over the years. So Dan was very, very active in Democratic politics. And of course he was a Hunt man and that was known throughout. After the good governor died and was out of office, died, Dan had still been very active in politics and then he'd been one of the people that had been very strong for Governor [Sidney P.] Osborn. So they, he seems to have picked ones that stayed in office for some period of time.

Silverman: So you were visiting Prescott occasionally when you . . .

Holohan: Oh, yes. Sometimes we'd go over there on a Christmas and . . .

Silverman: Did you drive over?

Holohan: Bus.

Silverman: On the bus. That must have been quite a trip in those days.

Holohan: Oh, yes.

Silverman: Two laner?

Holohan: Yes, that's right.

Silverman: No freeways.

Holohan: Come to think of it, you'd go up the Yarnell [Hill] and the White Spar. I'd forgotten about that. Yes it was pretty good.

Silverman: Twenty many hours on the road, I'll bet.

Holohan: Oh, no. We weren't that bad, because they were going sixty in those days. (laughs)

Silverman: Oh.

Holohan: Except when they'd hit the Yarnell and the White Spar and then they were just like the big old trucks. They'd kind of creep up the thing while everybody behind you cussed them. Yes, I guess it was about a twelve hour trip, though, come to think of it. But you'd strike out, usually eight or so in the evening and then you'd try and sleep on the bus, because we'd seen the desert a number of times. There wasn't all that much scenery to do. And by the time the sun was up and you were in, then you were into the mountain country and then that was different. That was pretty. Yes, they were, they were. . . . You didn't want to come over just for a weekend when you did that.

But Dan never paid much attention to me as I was

coming up until I got about in high school and I could talk things he was interested in. He was always very kind, I don't mean to do that, but he just had no interest there. And he could care less about sports. I guess his life revolved around politics and people. He was a very, very kind man and very concerned about people.

Silverman: Were you active in sports too?

Holohan: Not much, except like intermural. I didn't play on the varsity though.

Silverman: So were you in debate or anything like that in school?

Holohan: Oh, yes. Three years of that.

Silverman: How about the school paper? Did you do anything on that?

Holohan: No, I never got into the school paper or printing. This was something that I. . . .

Silverman: You're a verbal person.

Holohan: Yes, I just didn't seem to get into that part of the thing.

Silverman: What were your favorite topics in high school, or your classes?

Holohan: Well, of course, the odds on favorite was history. And then we had what we called it there in those times was civics or government. In other words, you

got a good dose of that at the Jesuit high school.

Silverman: Were you a boarding student or did you live at home?

Holohan: No, no. They had very few boarders at Loyola High School. They might have had, oh, like fifteen or so at most. They were mainly a day school. We had probably, oh, six hundred enrolled in it. And it was an all boy's school.

Silverman: Is it still in existence?

Holohan: Oh, you bet. Yes. I get the alumni solicitation every quarter or so.

Silverman: Are they affiliated with the university? Is it Loyola Marymount [University]?

Holohan: Loyola Marymount, yes, is the university. But they're run as independent organizations. Certainly it's under the Jesuit province of California.

Silverman: They're not on the same campus though?

Holohan: Oh, no. Loyola Marymount is out near the beach, Pacific Palisades. There was a time, but that was oh, before 1940, when they, both the high school and the college occupied the same campus. It was a very small college. The high school was much larger. They probably had somebody donate property to them and they moved out to the beach property. But it gave them the opportunity for each one to go their separate way and develop their own existence.

The high school has continued to expand and, my goodness, they have a very aggressive program.

They've gone into a good deal more things. Perhaps a little less emphasis on academics. For instance, they have a very good computer program there.

Silverman: What were your hobbies in high school? Did you have any particular things you liked to do?

Holohan: The sports, just from the intermural thing. I liked to play basketball and. . . .

Silverman: Did you have any work or weekend jobs? Paper boy . . .

Holohan: Yes. Somewhere along the line, let's see, I went to work for a little fishing tackle place. It made deep sea fishing, and they also had gotten a number of lathes and punch presses and things like that involved. So they had hired young people to come in and do that kind of work. And then we also would do work on the rods, the varnishing and assembly and things of that nature. So I worked for them for several summers and usually on Saturdays. But at four-thirty on, why I was home and cleaned up and then out on the town. That supplied the money for the dating and so on. Mother's rule is, you have to keep the gas in the car.

Then in college I went to work for a, in the

California area, I went to work for a little machine shop that was not connected with fishing tackle.

They did contract orders of one kind or another. I did some work for some of the, oh, T.V. manufacturing was getting to be quite a thing in California when I was in college there.

Silverman: You said you traveled with your dad. Do you remember where you went?

Holohan: Oh, yes. One year I was, went to Oklahoma, and of course being a brash ignorant young fellow, I said, "Oh gosh. Oklahoma. What a place." And it turned out that I enjoyed it thoroughly. We were mainly in Tulsa and in that era Tulsa, I thought, was a very pretty place there.

Silverman: Different than the desert.

Holohan: Oh, much different. I never saw so much water in all my life. It seemed like you couldn't go ten miles without some sort of a stream running through the place and I just didn't know there were places like that. So we traveled around in Oklahoma, pretty much, that year. Usually he would swing back over to Arizona about the time I was getting ready to go back to California. But most all of our time that summer was in the Oklahoma area. I met a lot of nice people, interesting people. Among them was a

wrestler. I don't know how famous he was, but at that time he was--I don't know how my dad ran across him, but there he was--Sailor Dick Trout. (laughs) So I got to go to the wrestling matches a few times, you know, and a choice seat and got to go back and meet the Masked Marvel and the Graffler and people like that. Yes, that's great for kid stuff. Then there was, the year before my dad died, I was with him in Arizona. He was on assignment pretty much there.

Silverman: Did he die as a young man?

Holohan: Yes. He died in, let's see, 1944.

Silverman: Oh, that must have been pretty traumatic for you.

Holohan: Yes. He had some brand of pneumonia, I guess it is, and it was just at the time when penicillin was coming in but it was not available for civilian use.

Nowadays they would have treated the thing with penicillin and probably had a recovery. He was, didn't take that good a care of himself. He was anemic. That was in the era too, when a lot of people used to self-medicate with sulfa. And that tended to complicate your anemia.

Silverman: So you were only sixteen then?

Holohan: Yes. Yes. So he didn't make it. But we had spent that summer together and had a great time there. So

there were a lot of good memories, and fortunately, in his illness and in the hard parts of that, I didn't have to view that. So I always remember him as somebody that, walking and talking and still very active. And those, I never had to see, as some people do, the terrible white and the tubes and things like that that you do now, which I think are really very traumatic. I just wonder how good it is for kids to see their folks in a position like that.

Silverman: So now, did either of your parents remarry?

Holohan: No. Oh, yes, he did. Yes.

Silverman: Did you have siblings, then?

Holohan: No. No. I was just the only chick. My dad married a lady here in Phoenix, Gussie, and she had been, I think she had been a secretary in an insurance place, as I remember it. I ran into an old lawyer many years later, that asked me how she was and so on, because we kept in touch after my dad died. She was a real nice lady and was always very kind to me, and inquired and kept track of me, how I was doing as time went on. And this old attorney spoke very nicely of her too, and had asked how she was doing. I think he had either handled some legal matter for her over some past time and thought she was pretty nice.

Silverman: Were there any teachers in high school that stand out in your mind as being very influential?

Holohan: (laughs) Oh, well, with Jesuits there's an army of them.

Silverman: There's always a story hidden.

Holohan: Yes, oh gad, yes. They're noted for being characters. We had one fellow in my freshman year, and that's a good time to have someone like this: Father Bellinger. A huge man. It was absolutely quiet throughout his classes. He never had to raise his voice, but of course he had a reputation before we got there and as reputations, they are always exaggerated. So whenever they'd say, "Well who do you have for English?" and I'd say, "I've got Bellinger's." "Oh, you poor guy." He was a very good teacher and as long as you behaved yourself and tried, he was actually kind.

Tape 2, Side 2

Holohan: But Father Bellinger stands out in my memory. I learned a great deal from him, because, as you say, you paid attention in his class.

Silverman: He was your English teacher?

Holohan: He taught English and first year Latin, too. The

Jesuits were big for Latin, so I struggled through that.

Silverman: Did you do well in English? Was that a good subject as well as history?

Holohan: Okay. Yes. It was not one of the outstanding ones, but it did. . . . We had some very interesting laymen, too. We had a Mr. Barnett that taught senior English, of all things, and he was the basketball coach. He didn't fit the mold of some things you see in the funny papers. He was a very articulate and well-spoken person and an excellent English teacher. Very literary, and pretty fair basketball coach, too. He probably belongs to that school that would wear the coat or the sweater while he's coaching. But he was very good.

It was interesting there: they kept the courses moving and they were so well steeped in their subject that they had no problem of putting it across, but yet they realized that we were young minds there. They were teachers. They tried to impart it in a way that you would learn. If it took repetition, okay, that's what it took, or if it took being comedy, well, then you'd do that.

Silverman: Did you have a lot of friends in high school?

Holohan: Oh, yes. Yes. We had a small school like that where

you have a lot of friends.

Silverman: Did you have any in particular that you kept over a long number of years?

Holohan: Probably not. Coming over here kind of separated them, especially when we started getting married and doing our own family bit. I had a very good friend by the name of Bob Graves and we tried to stay in contact for a while, but he had his family and was going off and he was into accounting and went to work for one of the aircraft manufacturers over there. We visited them one time--the we is my wife and I guess we had a couple of kids at that time--stopped by to see them and they had a couple, too. But that was about it.

Then a couple of the other fellows, Milray and Sanbourn, they went off to UCLA [University of California, Los Angeles] and you kind of get caught up. They went into their various phases. Sanbourn later became a doctor and Milray was some kind of professor. I never have figured out exactly what all those letters at the end of his name mean.

Silverman: How did you pick U. of A. as opposed to Loyola or UCLA?

Holohan: I wanted to come back to Arizona. I didn't leave voluntarily. I wanted to come back. This was home.

So there was always within me the idea, "I'm going back to Arizona, that's my state. I know it and my family has been there for years and years and years there. It was a good enough place for them to live and it's a, I like it." So I never had any problem with that. Economics and things like that would play a part in your reaching your goals. It was actually cheaper to go to Loyola.

Silverman: Yes, you were a resident there. Wouldn't you have had to pay non-resident tuition over in Arizona?

Holohan: Yes. Yes. So that made it more expensive there.

Silverman: What year did you come to Arizona?

Holohan: Let's see, I believe it was 1948. Yes, 1948.

Silverman: And how old were you then?

Holohan: About twenty.

Silverman: So you started right in to the U. of A. there. Law school or?

Holohan: I went first to undergraduate, finished up the requirements to get into law school. In those days you didn't have to have a degree. We had to have . . .

Silverman: Three years?

Holohan: We didn't even have to have that. It was seventy-some units. It was a little better than, seventy-six units, maybe.

Silverman: A five-year program?

Holohan: That was, sort of crossed my, you could go into the five-year program which was three years undergraduate and then your first year of law school, they'd treat it as your fourth year and you got the combined degree business. But I was running short on money and I wasn't interested in getting a B.A. or a B.S. or what have you. That didn't get me my law degree. So I got just enough units to get into the law college. I held my nose and took the accounting class because they told me that that was something that lawyers should know about. And they were right. That was probably the most valuable class I took. Then I took government and political science and the dean of the law college always emphasized English. I can see that was a very good advice to people that are heading for the law. I managed to get in in the fall class of 1948. At that time, with all the vets going through, they had a program that allowed you to pick up a full semester in the summer.

Silverman: Were you a vet at this time, then?

Holohan: No.

Silverman: Oh, so you just got the advantage of . . .

Holohan: See, they wouldn't discriminate. The rule was for

all law students. The fact that I was a young pup there, why I just got in on it while the old veterans were jogging along there. And many of them, of course, were much older than I was and they were wanting to get into their careers.

Silverman: How many were there in your freshman class?

Holohan: We started out with about a hundred and fifteen or so. Then there seemed to be strays that would fall in and fall out and at the end of the first semester we had about eighty-some. The casualty rate in those years was very heavy. So roughly twenty percent or so of the class was wiped out in the first semester.

Then at the end of the first full year there were a number of the people that were really on that combined curriculum thing and that they had decided that they didn't like this law business. So they completed their requirements and they were able to graduate. They had their degree, but they didn't continue with law. I don't know, there must have maybe six or eight or something like that, that I can identify from my own mind as having taken that route.

They just decided that this was not for them. So we were whittling them down as you went along.

Silverman: So what did you think after your first year of law school?

Holohan: I enjoyed it from the time I hit it.

Silverman: What did you have your first year? Probably procedure and contracts and . . .

Holohan: We had contracts, torts, personal property, criminal law and then, in those days we called it common-law pleading. They've got some fancy name for it now, survey of the law and so forth. We had to learn the old forms of action. You really knew that that was a gross waste of time because they were the old forms of action and people spent the next hundred or two hundred years getting rid of them. (laughs) But some law professor thought that was a keen thing for you to do. So who am I to do that.

Silverman: Do you remember any of your professors?

Holohan: I remember every one of them. Yes. For torts we had Lester [W.] Feezer, Professor Feezer. A great old guy. Quite an authority in torts. Maybe not the best teacher but he sure exposed you to a lot of ideas and by this time you're supposed to be getting more mature in your college and so there were challenges and ideas and his kind of confusing style really turns out there's a lot to be said, that's a lot about the law. You're hit with a problem and, my god, what's the answer to that and you have to go and chew on it.

We had Chet Smith, Chester [H.] Smith. Outstanding.

Now he was a teacher. Tended to oversimplify if you are being critical, but his mission was to teach you the law, and part of his strategy was to give you some basic principles in the law, and then you build from there. A dynamic little guy. It was great to go to his class, looked forward to it.

Billy [William S.] Barnes taught criminal law. A very good, a very smart man. He's one of those that had a degree in science as well as a degree in law. During World War Two they'd had him over in the science department doing some project or another. After the war he got to come back to teaching law, which apparently he liked better. Had a trouble with his accent, he was a North Carolinian. One of his courses, later on, I spent putting down in my notes an "in rem appointment". I asked my dear friend John McGowan, "What is an in rem appointment?" He said, "Oh you yankee. You just don't understand English. That's an interim appointment." The good Southerner had just, my ear was not attuned for that. He taught criminal law and worked to cover the course, got us used to using a hornbook or textbook in a lot of this especially with the, the spent a lot of time teaching you the common law elements. And

again, you know that the statutory elements have long since come in and taken care of that. But those are the basics and very often it forms the grammar, because so many of the things that we talk about they have their common law roots and you should know something about how they came about.

Then we had Claude [H.] Brown. He taught this survey of the law or common law pleading. He was really a character. A brilliant man. Had all kinds of peculiar mannerisms. Kind of quiet spoken. I got a good healthy respect after I saw how he graded and what he did to some of the classes there. Our class always approached to Professor Brown like I did Father Bellinger: listen to every word because it's very important and if you get preoccupied with some of his peculiar mannerisms and the like, why you miss things that you wish that you hadn't. And as a result some of the best grades in law school that I got were from Mr. Brown. There's no substitute for paying attention, I guess.

Silverman: Did you have any extracurricular activities in law school that you were interested in? The Student Bar Association or anything like that?

Holohan: Well we had PAD Law Fraternity. We had that. And then we had some--I boarded over at Cochise Hall all

the time I went through law school and you had some of the dorm activities there. And then there was the, we didn't spend all our times in the law library, there was the good social life that went on there. This was in the era when U. of A. had about five thousand students. It was a delightful campus and had a chance to know an awful lot of people there.

Silverman: Did you have to work at all during law school?

Holohan: Yes. Just before law school I'd been an usher in a theater, down at the, one of the Fox theaters, the Lyric, I think it was, in Tucson. In those days I think we were selling more candy and popcorn and soda pop than we were showing anybody to a seat. I worked there part time in the summer. Then after I had gotten into the university I managed to get a, what we used to call them, a page. It's that you'd answer the telephone and buzz the rooms. Or in Cochise you'd buzz the floor to summon somebody to take a phone call. We were, I guess we were paid minimum wage or something like that. It was a great job because you could study while you were doing that. Periodically you would draw the weekend duty. They'd usually have two fellows assigned to it and you'd kind of flip a coin to see who was going to do

Saturday evening and you'd work that out amongst yourselves. But I think that we'd only do that about every fourth weekend or something like that, that you'd draw that.

Jusem: May I ask a quick question?

Holohan: Sure.

Jusem: I get to hear a lot of these interviews and everybody mentions Chet Smith. They think he's the best professor and he has quite a reputation. I was wondering if you could describe for us what it was like to sit in the class and what do you mean when you say he was dynamic? Could you describe him?

Holohan: Well, let's see if we can think of somebody. . . . First of all we're talking about a man that stood probably about five foot, four. Iron gray hair. Always nicely dressed. He would come into the class, and he came in swiftly and was ready for business. He'd open his papers and now he's ready. He'd usually have some kind of an opening, you never knew what it would be. He wasn't a bit shy about pounding the table if he wanted to somewhere along the line. He might start out a class as, "Gem!" He was famous for his gems, they were a little principle of law. One of them doesn't come floating up to the surface right now, but they were these little pithy sayings

that he would have. Sometimes he'd write them on the board, sometimes he'd just announce them, repeat them.

He actually had some emotion in teaching his class. He pretty well held the stage, we didn't have a lot of questioning. When we'd come to another topic, why we wouldn't spend the time really going over the case that was in the textbook there so much as now he's taking the principals out of that and he puts them in his fashion. You've had a chance to read it ahead of time, but then he has done the thing, by pulling the principals . . .

Silverman: Didn't he write a book? Have I read a book by . . .

Holohan: Lot's of them.

Silverman: One that's still in use, though. It seems like I have read a something.

Holohan: Survey of Real Property, I think is one of his.

Silverman: Community property too? Didn't he write a book on community property?

Holohan: Yes. That's right. And he wrote a whole series for West Publishing Company, since he conducted the bar review, the only one in Arizona for a long time. There were a few lawyers that may have had semi-private ones, three or four students, but he had the law review. He put out a series of books that were

published by West to help people prepare for the bar.
Oh, one of them that I'm ashamed that I didn't think.

He would hit the table, "A lawyer must be bold!"
He'd say, "Somebody had to take that case up first
and say to an appellate court, 'This is right!'
(pounding the table) 'and if it's not the law, it
ought to be the law.'" So you can imagine then that
he got our attention.

He was a very high-principled man. See, to him the
law was doing the right and that what you were being
trained here was you were seeking to help people and
you were to do justice. And if there was an injury,
the law some way or another provided a remedy. It's
just you had to find it, and dig and think and work
until you did.

(someone knocks on the door) Yes, ma'am.

Unknown: Pardon me. _____

Jusem: When you took the bar exam.

Holohan: When I took the bar review, Chet Smith conducted it
and here we're going to review all the courses that
are going to be subject to examination on the bar.
Now I hadn't taken all of those courses during law
school. You just can't do it, not in three years
anyway. He was able to teach in maybe an evening
session the basic principles in those courses in a

way that made them understandable, make sense and in a way that you could remember it. I never took public utilities and they don't test on that any more on the bar, but they did some years ago.

He had this happy faculty for being able to predict what bar examiners were going to do. He'd say, he'd read the advance sheets and he said, "Now here's an interesting case that came out of the Northwest."

And he said, "I just think that this one or something like it would be a good one to be tested on." So he'd lay it out for you and darned if that wasn't one of the few times there was joy in the bar exam, was to come across a question and here was Chet Smith's example. Certainly it had been dolled up by the examiner and maybe twisted around to get at a point, and here it was, and you'd say, "I know that."

But he taught, as well as the bar review, he taught at that bar review. Now I had Professor [Floyd E.] Thomas for agency, a very fine gentleman there, but I don't think I really ever understood these things like agency by estoppel and ostensible agency and so forth. One session with Smith and I had a hold on it. I said, "That doesn't seem that hard. Why couldn't old Floyd do that for me?" But Smith could because he was a teacher and he had a way of putting

the information across in a method that you could remember it and that you could understand it. And that's, I think, the art of teaching. Shoot, I can get up and talk about law and all that kind of stuff to a class of high school people and they won't have a clue. But a good teacher can take a few ideas, put them across, give them the right examples, have it live for them in a way, and say, there it is. And that's what Chet Smith had.

Oh, I almost forgot one of the important persons too, is Dean [John D.] Lyons, the finest gentleman I have ever met. He was, although a New Yorker, you thought of him more as a Southern gentleman. He was so refined, really such a kindly person, so courteous. In the courses, when he'd have you recite, no matter how much you bungled up the thing, he'd always say, "Thank you." Then if you you'd really murdered it, then he would put the case to the class the way it should have, but in a nice way, not putting you down or anything. I always thought that was great. He taught contracts. He also taught my class then, he taught ethics. And he was the dean and had all the administration problems that go with that.

I later met the chief judge of the court of appeals of New York and his dad and Dean Lyons had been law

partners. They had a very successful practice, but unfortunately John Lyons had terrible asthma and that's what exiled him to Arizona. If it weren't for that health problem we would probably have read about him in the reports as perhaps sitting on the court of appeals of the state of New York, because he was a very, very smart man too. But he had poor health. The poor man sometimes he'd used to have labored breathing there when he was conducting his classes there. So he was never a robust man by any stretch.

I think he just, he had to live out in our country. Floyd Thomas, I made mention to it, I was too hard on him, but his best courses were the trial practice courses. Now there's where he could shine. He knew trial procedure and he loved trials. Some of the other more academic stuff, he was a little weak in, I thought anyway. It may have been a matter of interest, but when you got into trial procedure, oh, then he lived it. And he knew it, he knew the courses, and he would go through that. He also conducted the trial practice course. That was an elective and they usually kept that small. I never got to take that.

Silverman: Have kept track of some of your friends from your law school class?

Holohan: Oh, goodness, yes. We're a notorious bunch. I went through in two years and graduated, technically finished my course requirements in September of 1950, but I'm considered the class of 1951 as they do the June bit on there. Some of my other bunch that were taking, as I say, the leisurely three years they graduated then in June of 1951. Among the alumni, Bill [William E.] Eubank, court of appeals. We've been friends for years, and we were roommates in Cochise Hall when we were going to law college. Earl [H.] Carroll was a member of our class. The Royston brothers in Tucson, Richard and Robert. Let's see. Howard [H.] Karman.

Oh, Bill [William E. Jr.] Platt, shame on me. He was one of the close friends. Bill Eubank and I and the Platts, Mister and Missus, used to play bridge a lot. They put up with me in trying to teach me that game. Mrs. Platt was a really a crackerjack bridge player and she was awfully nice. When I was her partner why she was very kind.

Oh, and there's probably a bunch of the others, [Lowell E.] Rothschild and ones that are still in the area. He wasn't in my class but we were great friends, as was Russ [Russell E.] Jones in Molloy, Jones, et cetera, et cetera.

We had a lot of ours wind up on the bench. Val [A.] Cordova and Chuck [Charles L.] Hardy were a class ahead of me. But law school means a small, well you were all friendly. Sam [Samuel P.] Goddard and [Robert O.] Leshner were in that first, when I was a first-year student, why they were finishing up. Of course I've followed their careers over the years. Oh, Bill [William E.] Kimble was one of my classmates down in the good old Tucson area. I forget what year [Dick L.] Greer was. Retired from the court of appeals, long-time judge up in Apache County and county attorney before that. He might have been a class ahead of me, if I'm not mistaken.

There's one thing Mr. Smith always pointed out too, and why he thought it was so necessary for us to get some of the basics, "Because," he said, "some of you will be in very important positions much sooner than you should be." Because some of these young fellows went up to the small communities that they had come from and they became the county prosecutor, the county attorney. That was just the way of Arizona life. When you've got three attorneys in the county and one is the judge, and the other one doesn't want to be bothered with being a prosecutor, he's making too much money cattle ranching or something, why

guess who becomes the county attorney. The young fellow that just came up there out of law school, virtually.

Let's see, who else did we have in there. I had a visiting law professor that made kind of an impression. A fellow out of the University of Boston, just out for a summer session. The poor devil didn't know what he was getting into, I don't think. He must have thought of Tucson and thought of it in the winter, and here he came out in the summer.

He had pioneered these practical courses in drafting of legal instruments. Well, he taught corporations and a drafting course there at the U. of A. for that summer session. He didn't expect the class to be as large as it was so he didn't really get to shine as the way he probably could have.

But even with that he had a lot of good suggestions of how you approach a problem presented to you that you're going to have to craft into an agreement between people. A lot of those things I remember, and one of the things that I remember very practically, he said, "Never talk about your cases at home." And when you get down to it, if you're talking about client confidentiality, what are you doing talking about it, even in your own home.

That's nobody's business but the client and the lawyer. The practical thing is that sometimes members of the family slip and let out information, certainly not maliciously at all. So that's one way and the best way for you to do it is just guard your own mouth and respect your client's confidentiality.

So what goes on in the office then, well, that's it.

When you close the door and go home, there are all kinds of wonderful things and subjects to talk about other than what you and the client were doing. I have seen examples of people that should have paid attention to Professor Siskind, but they didn't have the benefit of his course maybe.

Well, law school was a very pleasant experience.

Sure there were all the tenseness, you have one exam for a semester, which kind of causes you some pain.

When you approach that your entire grade depends upon that. But you were, at least I was, feeling I was reaching my goal and I was getting closer and closer.

So there's a little bit of an excitement that was going around there. I was too young to be worrying much about what I was going to do when I graduated, whether you're going to be able to make a living or what. I didn't really spend an awful lot of time worrying about that. And as it turns out that was a

good thing because Uncle Sam had plans for me.

About the time that I was in my final summer semester the North Koreans invaded South Korea and the fat was in the fire. I was taking a series of examinations one right after the other. I had examinations in my classes, I had physicals at the selective service, plus the IQ tests plus the bar exam.

Silverman: They had a bar exam?

Holohan: Not the army, but the state had a bar exam.

Silverman: When did the bar exam start in Arizona?

Holohan: Shame on you. It started way back in the thirties.

Silverman: Is that right?

Holohan: I'm not that old. (laughs) Actually, they've always had some kind of a bar exam, but in the early days it was oral.

Silverman: Well there are still a few states where you don't have to take them and I thought Arizona was one of the later ones.

Holohan: No, we do not have the diploma privilege. If you're a graduate of the University of Wisconsin, hooray for you. When they graduated and certified you as such you get admitted to the Wisconsin Bar. There have been a few attempts over the years to get the diploma privilege in Arizona, but I don't think the judges on the Supreme Court, certainly my colleagues, we just

smile and said, "No, you go ahead and take your bar exam there."

Silverman: So did you have it in July, where you took summer school and graduated at the end of summer school?

Holohan: Yes. Again, it was one of those things they were doing for the veterans. But since they were doing it for them they had to do it for everybody so situated. Equal protection, see.

Silverman: Yes.

Holohan: No false classifications. So I rode in on with the best of the ponies. They had the rule that you could take your bar exam at the ordinary time, but there would be no grade communicated to you until the university had certified that you had completed your law studies. We would be finishing up the last of August, maybe early September. It was a privilege that they had granted to accommodate the returning service men there. So that summer semester I took the various examinations for the classes and then there were a couple of days there that I took the bar exam. Then that was a blur while I had to take some more classes and the exams at the end of that session. The law school sessions were eight weeks apiece, so you actually managed to get in sixteen weeks in the summer time. And that was a corker.

Since the courses had to get in the requisite hours they were usually, instead of the fifty-five minutes, they were an hour and ten and two hours, whatever it is that you got the necessary. And they were every day of the week. So summer was kind of a drag. At the same time I'm going through my physicals for the military and I'm just hoping against hope that all the time schedule just falls into place. I think it took my last physical or whatever it was, late in August and they said that, "Well," I said, "am I going to be around here for September?" They said, "Oh, could be." Real helpful and communicative. So anyway, early in September, that first week, why here comes--I'd finished my courses and passed all those--here comes the word from the bar that you passed. So that, heave a sigh, and on the thirtieth of September in 1950 I was sworn in. About October sixteenth I think it was, I was sworn in in a different fashion, into the military. That was close timing, but oh, that did it.

End of tape 2

HOLOHAN TAPE THREE

Tape 3, Side 1

Holohan: Yes, about the sixteenth of October, I think it was, I was sworn into the military and went off to beautiful Oklahoma and Fort Sill. Now that was a part of Oklahoma I hadn't seen and I can't say I missed that.

Went through the usual processing and so forth and then was sent to Camp Chaffee, Arkansas, located at Fort Smith. The area around there was interesting and if I had been more attentive, I didn't realize all the history that goes with Fort Smith from its days when the western migration was going on.

At Camp Chaffee I was encouraged to apply for a commission and I did. Before I applied, some of the fellows also that had law degrees and one of them that was a friend of mine had actually practiced for about a year, and they'd sent back from the war department or the department of the army a rejection and said, "Not sufficient qualifications," or something like that.

The secretary in the JAG [Judge Advocate General] office. . . . By then I'd gone through basic training so they sent a couple of us fellows that had law degrees, sent us over to the JAG section and we were go-fers and what have you and helped out at court

martials, courts martial, excuse me, and did a little work on the lectures on military law to the recruits that were coming in. The secretary said, go ahead. I said, "Well, Johnson's had a year of practice and they've rejected him." She said, "The army is unpredictable and things change over night. Don't pay any attention to that. Give it a run. It doesn't cost you anything." I said, "Okay." And I'll be darned, here it comes through and I get the commission. So one day I was a corporal and the next day I was a first lieutenant, because that's, in the military, in the JAG section, a direct commission there is they don't put them in at second, you go in as a first lieutenant. Now the army also has the custom as they transfer you usually. If you've been an enlisted man in one spot and become an officer, they transfer you. That was all right with me. So I went to Camp Polk, Louisiana, to the JAG section down there and did a little work as a defense counsel in the court martial down there. From Camp Polk I then became the recipient of an all expense paid tour to the Orient and went to Korea. In Korea, had a very interesting assignment. When I first got there, of all things, they assigned me to war crimes. I had arrived there actually about 1952,

I think it was, so the real work that had been done in the war crimes section had pretty well been completed, at least I thought it had anyway. The North Korean invasion that had come down and then after the Inchon landing our recovery of those territories and discovery of some of the things the North Koreans had done had been pretty thoroughly investigated. There was still some work that they required to be done, some additional checking and the like, but the more exciting work had already been completed.

I went to the island of Koji Do, which is off the southern coast of Korea. It was housing the captured prisoners from North Korea and what have you. They had discovered in going through the interview of the people, the prisoners, that a lot time people were scooped up as prisoners that were residents of South Korea and they were just fleeing and caught in the middle. They had, of course, some hardened good solid North Korean soldiers. They had a Chinese soldier contingent. This was about the time that the military decided that they were going to separate these groups and identify them and those people that were not really soldiers or that at least were not dedicated North Koreans there, they were going to put in some other area and sift through that and probably send

them back home.

In the meanwhile, some of the compounds were presided over by some very, very strong communists and people were very frightened about saying that they weren't dedicated North Korean communists, or at least adhering to them. It was a very tense time in that. The war crimes section had been doing a lot of interviewing, we must have had six or seven interpreters there that we were using and they were interviewing many of the people. Sometimes a person would be pulled out of a compound and be subject to an interview and then found later to be hurt. There were also the other side where they were already hurt and then pulled out of a compound and found out that they were sort of the South Korean loyalist bunch. The North Korean dedicated communists marched around in these compounds and sang their songs and conducted their exercises and kept up the militancy that they had. The military then, in a couple of places actually sent troops into a compound to get people that had been identified as not part of the militant group and to get them out and to put them in other compounds. They decided then that they would move these so-called loyalists, or maybe questionable anyway, move them out of Koji Do. So they were moving

them out in trucks, putting them on the ships and sending them to a place a little bit north of Taegu called Yongchong. They would have a separate camp there and then there would be further interrogation, further investigation leading ultimately to the idea of releasing them and sending them back home. A lot of them were farmers that had, first the North Koreans would come down and they'd run some place and then here comes the Americans and the South Koreans and they were pushed forward and they wound up being prisoners.

I got to witness a lot of that going on and to witness the militancy of some of those communists. Here they were even, they're prisoners but they were still keeping up the banner and the defiance and if you happened to be of the wrong dedication why you either became a convert or you wished you'd become one.

From Koji Do I was sent to _____ where we pursued this policy that they were involved with, the military. I was there for a while then I was sent over to the city of Taejon where they were doing some further checking and work on some of the war crimes. There had been some activity in that area and so there was some follow-up on that. I had that--as they say in the military, you fall into some of these

assignments there, but regretfully that one didn't last that long. They had a military hospital there in Taejon and oh, they probably had forty nurses or so in there. So life was not looking so bad even in Korea. That lasted, I think, two weeks, then I got my orders to go to the Third Division. So, well, it was nice while it was lasted, as they said.

So in the Third Division I was in the JAG section and we got back to the business of courts martial reviewing legal matters there, such as the military. From the Third Division I was transferred over to Tenth Corps as the prosecutor, they called them trial counsel there. That provided some really good experience because during my stay with them I prosecuted a couple of homicides, a robbery, and then there were some of the military type of offenses that go on. But you got a chance then to have some application of your civilian skills, if you will, there, such as the proof in a homicide case. For a young lawyer it's good practice to be a prosecutor because you have to put on the case. You have the burden of proof. So it's harder to do that type of work. You have to learn to organize and plan and then schedule and question your witnesses, whereas the defense usually doesn't have a, oh, a specific alibi

or some type of thing where they would be putting on a planned case. They're usually looking for weaknesses in the prosecution there. So it was good practice to be involved with that.

In Tenth Corps our staff judge advocate was a bird colonel. In corps, as distinguished from the division, you have all kinds of field grade officers wandering and doing all the great important things that they do in the military. Most of them were bird colonels or lieutenant colonels. In division why we have lots of majors and captains and things like that.

A lieutenant isn't quite so lowly in that group, but in corps you're way down the line.

The staff judge advocate that I served with just before I came home was an Oklahoma lawyer. I keep running into this Oklahoma. He had gone into the service in World War II and had wound up in the JAG Corps and had gotten promotions. I think about the end of the war he was a lieutenant colonel and he just decided he wasn't going to back and try and establish a practice anymore. He had a comfortable living and he had put in that much time and probably he would have a secure retirement if he stayed with the military. And that's what he did.

He understood young attorneys fresh out of law school

more than some of the other military lawyers. A few of them had actually been West Pointers and then sent through law school, which I always thought was kind of an interesting assignment to have. But he understood since he had practiced law. We got to be friends and I was still a pretty young pup and I think he just kind of felt fatherly. There was somebody to talk to about things that would understand, that hadn't just been steeped in the military all the time there, knew, and wanted to go back and be a lawyer. So he enjoyed some of the war stories, if you will, that lawyers tell each other on this and that. Only I was listening, I didn't have any to tell.

But he was a very interesting old gentleman, and a bird colonel is very, very high in the JAG Corps. There weren't very many of them. He was putting in his time. Unfortunately I didn't follow up to ever find out what happened to him. We went our various ways.

Before I went--a very important part of this story--before I went to Korea, my jumping off place, of course, is out of San Francisco. So I went to Camp Stoneman, I guess it is, is the embarkation camp. We were all just really sitting around waiting there. You go in and they check your shot records and a few

things like that and make sure that you're all ready to go and then you're pretty much, time is your own. They post each day any shipment orders and you were assigned a section number.

So in the evening--there was a friend of mine that I'd known at Camp Polk and he was also on his way over, he was an ordinance man--so we went to the big town of San Francisco to a party. There I met a beautiful girl, Kay Dewey, later to become Mrs. Holohan. So I thought, "Oh, that was pretty good." So we had a date or so and then as luck would have it, like the hospital at Taejon, Boom! out I go.

I thought I better keep track of this girl, so I kept up a correspondence with her over the about the fifteen months that I was overseas. So when I came back why we renewed our friendship again and dated. Then there was the distance because I was back in Arizona and here this girl was a third generation San Franciscan and coming out here to the desert, that had some reservations about it. But finally I talked her into it. So we were married in San Francisco in December 1953. Had a honeymoon and came on back to Phoenix.

Meanwhile I had a job . . . Pardon?

Silverman: You were very determined to be an Arizonan then. You

could have stayed in San Francisco.

Holohan: Well, yes, I suppose so. Just downright stubborn.

Silverman: I'm sure if she was a third generation San Francisco, she must have had plenty of contacts there in the law business, or her family did probably.

Holohan: Well that's right, come to think of it, because her uncle was a practicing attorney. He was practicing down the peninsula there.

Silverman: She didn't try to keep you in San Francisco?

Holohan: Nope. No, whither thou goest, I go, I guess was what No, she never really ever said anything like that. I guess she just thought it was a foregone conclusion that I was a desert rat and that's where I was going to go. So if she was going to team up with me why that's where she was going to go. Fortunately that was her train of thought anyway.

When I got back from the service and after I finally got out of San Francisco and came on back home I went to looking for a job. I had some money I'd saved up, you don't spend much any money in Korea, and the thought that, well, I might just open my own law practice. Had a very good friend in Tucson, Julian [H.] McClure, he was working for the registrar of contractors and we'd talk maybe about going into law practice.

I ran into Ed [Edward W.] Scruggs, a fellow that I'd known, an attorney, and I'd known in the days when I was a Young Republican in Tucson. In the college days that was one thing I did, I did join the Young Republicans. So Ed, unbeknownst to me, is now the United States Attorney for the District of Arizona. [Dwight D.] Eisenhower had won the election in 1952. I voted absentee, but I didn't get to see all the celebrating that was done. Ed was going to leave the U.S. Attorney's office. The Attorney General said you couldn't have private practice and be a U.S. attorney and Ed had too good a practice, I guess, to give up. He said, "What are you doing?" I said, "Well I'm not doing anything." He said, "Well there's an opening for an assistant U.S. attorney in Phoenix." He said, "I'm not going to be the U.S. Attorney after such and such a date and a fellow by the name of Jack [D.H.] Hays is going to be the United States Attorney." He said, "Why don't you go see him?" He says, "I think it's a good job and it would give you some good experience." I said, "Well, that sounds like a good idea." He said, "I'll give him a call."

So by golly I went up and interviewed and Hays said he'd think about it. And just a lot of waiting. It was like the military, you didn't know what was going

to happen. Another fellow from my college days, Bob [Robert C.] Forquer was with Johnny [John J.] Rhodes' office there and we had been talking to each other renewing old times. He said, "I hear you're going to get a piece of good news." I said, "Oh?" So I had kind of an inkling. I got the job.

So with the job, then I could pursue my San Francisco girl, there, now I had a job. And I got an apartment.

So when she said, "Yes," and we'd set the date and I approached--now I had been working all of about a month--I went into my new boss, the United States Attorney and asked if I could have some time off. He said, "Time off! You just got here.!" (laughing) I said, "Well I want to get married. So I'd like to have a couple of days at least for a honeymoon. We've kind of worked this out to where we're going to get married on a Saturday and so on, but I do need to fly up on Friday." Anyway, I'm sure he was holding back a smile on the thing, but he finally said, "Well, okay."

Silverman: Did they have air service between Phoenix and San Francisco in 1952? Was this 1952?

Holohan: It was 1953. It was a direct flight. American Airlines.

Silverman: Wow. Two engines?

Holohan: And both with strong rubber bands. (laughter) You're

bad.

Silverman: A DC-3, I'll bet, though.

Holohan: Yes. It was not very commodious there. No.

Silverman: I flew in 1954 in a DC-3. I can remember that.

Holohan: And of course after some of the things that I had been flying in why that was luxury, because I'd been flying in C-54's in bucket seats there, so that. . . . Boy, you got separate seats and they're cloth and soft. So we got married and came back and settled down to living in Phoenix, Arizona. The following April her mama and sister came down for Easter to see what in the blazes was going on. And they found out, gee, we wore shoes and we had running water and they just. . . . It was a little warm, unfortunately, that April which so often happens, but her sister loved the idea because she liked to get out and get a little tan and sunning and we had plenty of that around. Her mother had never seen Camelback so we took the usual cook's tour around to the various places there and I think she felt better. She went back and had the feeling, well, there is some civilization out there. Not a lot of culture, but it's all right and they are within airline distance of San Francisco.

Silverman: Did Phoenix have a symphony or anything like that that a San Franciscan would be used to?

Holohan: I don't know whether we did at that time. I wasn't much into that in that era anyway. I had other things on my mind besides a symphony.

One sidelight, I had an assignment to go up to San Francisco to argue a case at the Ninth Circuit. Of course that's a neat deal there. They're going to pay my way up there and so just for a little bit more, why, Kay can come. We'll go on up there and we'll stay at her mother's place and see a little bit of what's going on. I'm packing and, let's see, it was July that I was going up there, and she say's, "Where's your overcoat?" I said, "Well, I don't have it." She said, "You'd better put that coat in there if we're going to San Francisco." Well, I'm hopelessly in love and if she wants me to put in an overcoat and galoshes or what have you, well that's all right with me, I'll take the over coat with me. And my gosh, when I got up to San Francisco, I didn't realize anybody had temperatures like that in July and I don't think I ever went off that I didn't wear the thing there. I think the highest was about sixty-four or something like that the three or four days that we were there in San Francisco. The low was about fifty-four and the high was somewhere around sixty-six, sixty-eight maybe. Somewhere in there. Lot's of fog.

And she thrived on it. We've been back many times since and I generally pack a coat whether it's summer or supposedly winter there.

Let's see. I was with the U.S. Attorney's office.

Silverman: Were you in the civil or criminal division?

Holohan: Yes.

Silverman: Both? (laughter) They didn't have two divisions then?

Holohan: That's about it. In that era the Phoenix office was composed of the United States Attorney and three assistants.

Silverman: Now there's what, forty-seven or fifty-seven attorneys?

Holohan: Oh, yes. Who knows?

Silverman: It's in the fifties, I think.

Holohan: And the Tucson office had two assistants. We handled civil matters. The biggest thing was the criminal case load. We also handled land condemnation. Any matter involving income tax, in that era the Department of Justice sent out one of their bright lads or gals to handle. They didn't have us. And the anti-trust cases were also handled through Washington.

There was a branch office that they had in the Los Angeles area and sometimes the attorneys would come from there. But those were sort of rare things that

once or twice a year somebody like that would come in.

Visiting firemen as we used to call them. Nice people and we'd be interesting to talk and get some of their experiences. They were usually subjects of the law that we didn't know much about, and try and get a little idea of what their case was about and something about the law and the strategy and just try and keep up with the new subjects, as it were.

Jack Hays was a great employer. He expected you to handle your cases and he gave you pretty much full leeway on that and he realized that when you needed help or you needed advice or there was a policy matter, that you were mature enough to recognize those and that you would then bring that matter to his attention. If there was a policy decision, he made it and he took the consequences. If it was a good decision, why everybody said hooray. If it wasn't such a good decision or if it was unpopular or something like that, then he took the storm, not his assistants. So it was a pleasure to work with him. I had a lot of interesting cases over the years. Probably the most colorful part of it was working with Judge Ling, Dave W. Ling. L-I-N-G. The first time I saw that name I thought he was a Chinaman. I said, "I didn't know we had a _____." They said, "Don't be

dumb. It's an old English family." His father was a very prominent attorney in the northern part of the state, a Prescott boy. Dave went off and I think he graduated from Stanford or some college outside the state. I'm pretty sure he didn't go to U. of A. I'm not positive of that but it seems to me that he went to one of the California law schools and that when he came back he went into practice in one of the mining counties in the eastern part of the state. He didn't practice in Prescott. I suppose father, son there, they weren't going to be in the same law firm and Dave wanted to be on his own. His younger brother, Perry, also became a lawyer and was a long-time assistant in the attorney general's office. As they used to say, the attorney generals were politicians and Perry [M.] Ling used to put out the legal work.

Silverman: How many years were you in the U.S. Attorney's office?

Holohan: I was in six years. From 1953 to 1960. I left in April 1960. Went into law practice with Lou [Louis B.] Whitney. But Judge Ling taught me an awful lot about law practice. Like Bellinger, he was a tough master. But he ran his court.

Silverman: He was a federal district judge?

Holohan: Federal district court judge, and a long time. He'd been on there since, oh, 1937, 1938, something like

that.

Silverman: How many federal district court judges did we have then?

Holohan: At that time we had two. We had Dave Ling and Judge Walsh, James [A.] Walsh. Walsh sat down in the Tucson area and Dave Ling stayed in Phoenix. In the summer Judge Ling used to go to California and he would try cases over in the Southern District and also vacation a little bit. But he got out of the heat. But he never went to Prescott.

Silverman: How about Tucson? Was there a federal district court in Tucson too?

Holohan: Yes. There was a--the District of Arizona as such, was just one district, which was co-terminus with the state borders there. But there were two judges assigned to the district and the presiding or senior judge was Dave Ling. Judge Walsh was the associate and he had maintained his headquarters in Tucson. There are actually federal courtrooms in Tucson, Phoenix, Globe and Prescott. In the summertime Judge Walsh used to go to Prescott to try cases. He liked that. Judge Ling said, "Oh, if I get up there all I'd do is drink." He said, "That's not good, so I'm not going up there." So he never did in the six years or so and I had never heard of him trying cases in

Prescott. So he must have been thinking back to the days when he was trial judge on the superior court or some such thing as that. But Judge Walsh used to enjoy going to Prescott and during the summer, why, he would try his matters up there.

Silverman: Did they have magistrates at all?

Holohan: No, no. We had a thing called U.S. commissioners and they couldn't try all the stuff that they do now. The U.S. commissioner was similar to a j.p. When somebody was arrested on a federal offense and you wanted a preliminary hearing to be held, the U.S. commissioner would hold that hearing. So when you were first brought in you would be brought before the commissioner by the arresting FBI, marshall, postal inspector, whoever it may be and the commissioner would set bond. If you wanted a preliminary hearing he would set the preliminary hearing and hear it and then determine whether there was probable cause to bind you over to await the grand jury. Unlike our system here, the commissioner could not bind you over to the district court. He'd just bind you to await the action of the grand jury because the grand jury, under the federal system, is the only one that can accuse a felony.

There is a system they call waiver of indictment which

was employed. Most people didn't want to wait around, they knew they were going to, that you'd arrested them, you were going to charge them. If they wanted a jury trial they'd waive indictment and let the U.S. Attorney file an information and then plead not guilty and get their trial. In like fashion, if you wanted to get it over with you could do the same thing and then plead guilty to the information and then you'd be set down for a sentencing by the federal judge. But we didn't have magistrates. The first magistrate I ever became aware of was, I think they had a special category created for Grand Canyon because there was so much traffic problem that was going and it was a federal enclave. So they had it set up there, I believe that commissioner was given special powers that he may have even been called a magistrate. If you wanted to appeal you could and you could appeal to the federal district court, which, of course wouldn't make the judges very happy. During that time I had the opportunity to try criminal income tax cases.

Silverman: What was your beginning salary?

Holohan: My beginning salary? Oh, five thousand dollars a year. Oh, yes. I really had it there. And when I had been admitted to the bar for three years my salary

was raised to six thousand dollars. When I left the U.S. Attorney's office I was the chief assistant and I think I was drawing just about eight hundred a month.

Ninety-six hundred a year there. That's when I left the office and went as an associate with Lou Whitney.

Silverman: Did they have the federal courthouse that they have now? Is that where you worked? That building is newer than 1953, isn't it?

Holohan: Oh, yes. The building that I first practiced in had been an old post office with the federal court on the third floor and the U.S. Attorney and so forth on the second floor and the ground floor had been a post office. Then they built the so-called new post office which is on . . .

Silverman: Roosevelt and First Street? Is that the post office?

Holohan: Yes. It's south of Roosevelt there, but it's . . .

Silverman: Right next to the Bar Center?

Holohan: Yes, and right next to the old Westward Ho. That was the brand new big spanking main post office and all the postal functions were then drawn out of that building and it was then the courthouse.

Silverman: Where was it located?

Holohan: It was located where the present building is on First Avenue between Monroe and Van Buren. It occupied just a portion, about a quarter of the block. It had a

parking lot in the back but the parking lot did not go all the way to Second Avenue because the ground was also occupied by the Water Users, whose building faced on Van Buren, Van Buren right next to Second Avenue, and on Monroe and Second Avenue was the YWCA, I believe it was.

Silverman: How far did you live from work?

Holohan: When I first was employed, I lived about a mile and a half, but then we moved way out in the country to Camelback [Road] and Thirtieth Avenue. We bought a house. We paid ninety-eight hundred dollars. Three bedrooms and a . . .

Silverman: So then you had to drive to work?

Holohan: Had to drive to work, yes.

Silverman: There was no freeway then was there?

Holohan: No, the so-called Black Canyon, well it was Black Canyon, it wasn't freeway. It had--a lot of territory had been set aside because they knew someday they were going to put a freeway there, but it was, it seems to me it was still two lane. It was big enough that they could have painted four lanes on it, but they didn't. It was just two lane. We'd go down and generally come into town on Grand Avenue and come on down to the courthouse. We also had a little park that I think belonged to the, belonged to the city, I think. It

was a very tiny thing.

Silverman: The city court building was across the street or over the next block? Jefferson was a block over.

Holohan: The city court building was on Washington between, well it was on the Second Avenue side. It was actually in the--the city council and all that was all in that building. That was the west side. The east side was the superior court and county offices. The county offices in there included the recorder, the assessor and so all of those were in there.

Silverman: Did you work with the county attorney or the city attorney at all like they do today on special drug investigations, that type of stuff? Was that a . . .

Holohan: No.

Silverman: Totally separate?

Holohan: Totally separate and we rarely had anything to do with them.

Silverman: You didn't have overlapping jurisdictions in any of your cases?

Holohan: Probably, yes, we did have overlapping jurisdiction, but very often, like in drug cases and so on, they were just as happy to have the feds do them.

Tape 3, Side 2

Holohan: Yes, the county attorney's office were pretty well occupied in the common law kinds of crimes and assaults, burglaries and thefts, murders and things like that. The United States attorney dealt with stolen cars and interstate commerce, income tax violations, occasionally something involving the counterfeiting. We also dealt with frauds against the government and false statements, theft of federal property, theft of things from post boxes, forgery of federal checks.

Silverman: Did you do any of the appeals, say, from immigration courts or social security courts or did they just go out of the system?

Holohan: The United States attorney had no jurisdiction of those types of cases. Appeals and so forth involving social security went up through an administrative side and I guess in those days the Social Security Administration was an independent agency. The Veteran's Administration had their own attorneys that handled their administrative hearings. But any time anybody had anything in the United States District Court it went through the Department of Justice. Nobody else under federal law was allowed to represent the government except the Department of Justice. So even in a tax case where the matter is not going

through the tax court but is going to the United States District Court, like they paid their taxes and suing back under the refund, the Department of Justice would handle that even though it was a tax matter. And the U.S. Attorney is, of course, a part of the Department of Justice. Even though he is a presidential appointment, nevertheless, in the chain of command, he answers first to the Attorney General.

Silverman: Did you have a solicitor general stationed in Phoenix then? They have one now. A U.S. solicitor general who does the land transactions and. . . .

Holohan: We didn't have anybody that had that fancy title. We had one of the attorneys in the office that handled the land transactions, that is the condemnations. There was a lot of that, they were condemning land for roads and for air fields and gunnery ranges and things like that. The department that was claiming the land, we would file a complaint on their behalf in the United States District Court to get the land and to fix its value and then serve the property owners concerned. The property owners would answer and those that wanted a trial, wanted more money, why one of the assistants would try that case. We had an attorney, one of the attorneys tended to specialize in that and he was the most versed in it, but our office was so

small that if necessary anybody would pick up the hammer and go and proceed to handle that, pound on that type of case.

Silverman: How about the Army Corps of Engineers? Were they doing condemnations for flood control projects at that time too?

Holohan: Yes. The Army Corps of Engineers was involved in a number of projects, but again, if it cannot be negotiated where the person sells to the government and it has to be condemned, then the U.S. Attorney handles it. It's true that the engineers would come in and provide the technical evidence and they would hire the appraisers that would be used by the U.S. Attorney to establish the value for the land, but that was the extent of their function in the court proper.

So everything that goes through the district court there, justice or through the U.S. Attorney is the one that has to do that. So we had a lot of interesting matters from that standpoint, and we were so small that even if you weren't handling you could look over the shoulder and listen to your colleague who was describing how it was done and giving you some of the fine points and maybe discussing legal issues with you. And it wasn't uncommon if we got in the midst of preparation for a case that your colleague would say,

"I've got to have this researched." So you'd go out and do it for him. You'd go out and get the cases and material and so on.

Silverman: Did you have a county law library at that time?

Holohan: Oh, yes. Yes, the county law library. But most of our stuff was federal so it was selective. We would be looking at the U.S. Code, we'd be looking at the regulations, we'd be looking at the Federal Reporter second, some work with the Federal Supplement, and of course Supreme Court reports. So we pretty well were centered in that. Now if we had something that required state law why we'd probably have to go over to county library there and check out the Arizona Digest and Arizona Supreme Court reports and things like that.

Silverman: Was there an active Bar Association then?

Holohan: There was an active County Bar Association and State Bar, but there was no such thing as a federal bar. That came on a number of years later. There was not very much practice in the federal courts in the fifties. A lot of the litigation getting into the courts, the so-called Civil Rights Acts and the various federal remedial work came much later, after my era. We didn't have to be concerned about any of those. Civil rights actions were very few and far

between.

Silverman: Do you think your experience as a federal U.S. attorney gave you a different perspective when you became a state court judge?

Holohan: It sure did so far as trial practice was concerned. I had been brought up on the idea that a court was a very special place, that there was not a lot of shenanigans that took place in it, that you conducted yourself in a very formal fashion, and that there was not a lot of wrangling and argument, you stated your legal position, the judge ruled on it, if he ruled against you okay, you went on with and did the best you could and figured if he's wrong I'll reverse him on appeal. But there wasn't a lot of wrangling or arguing. Judge Ling ruled very promptly and rarely did he ask for help. I'd be presenting a matter and I'd ask a question and counsel, the opposing counsel would object. Nine times out of ten the judge would rule there, sustained, overruled. Sustained, I didn't go any further there, I backed off and if I wanted to try and get the point I thought a minute and maybe another way to go about it. If it was overruled, he didn't ask for any argument from counsel, and sometimes lawyers who weren't familiar with federal practice would tend to say, "Now, I'd like to be heard

on that." He said, "Oh, I don't need any help. Go on." That would be my signal and I'd say, "You may answer the question. If you don't remember it I'll have the reporter read it back to you." And we went on. And the old man, I don't think was ever reversed on evidentiary rulings. Sometimes maybe I'd ask a question and there would be an objection and he'd say, "What are you trying to do?" I'd say, "I'd like to establish thus and so," because he didn't know where the case was going. He'd say, "Oh, you can't do that. Sustained." Or he'd say, "All right. Overruled." And it was just that quick, bang, bang, bang. And you'd get it going. You don't have a lot of wraggling and so forth.

Silverman: It's changed a lot _____

Holohan: That was really kind of the shock to me and I ran my court like the federal court and a lot of lawyers didn't like that. I've had them attempt to argue whether a question is leading or not. Now that is the height of asininity. What difference does it make if the judge sustained it there. If you can't think of a way to word your question to get around that then you don't deserve to be a lawyer. But they just come in like banty roosters and decide that that's the way to be a lawyer, is to make a lot of sound and fury. I

was never brought up that way. The law I learned was, when the judge ruled, that was it. And as I say, if he was wrong you could take him up and reverse him and that would teach him that you knew law too and the next time that you made a point why he'd better take a second thought, because you knew what you were doing.

But Judge Ling, after all the years on the trial bench and then on the federal bench, he knew his evidence.

Silverman: Well the federal rules of evidence were probably about one fourth as thick as they are today, wouldn't you say?

Holohan: They didn't have a thing called federal rules of evidence. See, we have these things codified now. At that time we had sort of the common law idea that the judge made rules of evidence that we'd had there that we'd synthesized through the cases and that was it and Wigmore and people like that would write their great texts and that would be helpful. But they didn't have a code of federal rules of evidence there. But you can bet your life that the old trial judges in the district court knew their evidence and the court of appeals certainly knew the evidence. But there was--trials that were had in the federal court would be over in a couple of days and they would still be

fooling around over in the superior court trying to select a jury. Some of our superior court judges of that era, one of the problems was that they didn't have talent, they were . . .

Silverman: Political appointments.

Holohan: Well, they weren't political appointments because they had run and got their job without appointment. Without referring to one, by name anyway, why his court reporter knew more evidence than he did. In fact on occasion, so the stories go, there would be a recess called and he'd discuss the point with his court reporter.

Silverman: Is that judge still alive? Is that why you can't say his name?

Holohan: No, he's dead, but there's no use . . .

Silverman: Okay.

Holohan: . . . to anything. It's an era that's long since gone. So when I was on the superior court bench I tried the case like it should be tried or like I was used to trying them in the federal court, and a lot of lawyers didn't like that. But I thought that was the way that it should be and in order to get the justice of the cause there, let's get to the business of trying the law suit.

Silverman: Were there any cases while you were a U.S. attorney

that recall that were monumental, went to the Supreme Court or that were really important or memorable for other reasons?

Holohan: (laughs) Some of those I don't want to remember. We had an interesting one that went up to the United States Supreme Court. Oh, I guess it was U.S. versus Sudgeon, probably.

Silverman: How do you spell that?

Holohan: I think it was S-U-D-G-E-O-N, I believe. Something along that line. They were farmers in Yuma County and . . .

Silverman: About what year do you think that was? I'm going to add it to your file if I can find it.

Holohan: Let's see. Somewhere around, oh, maybe 1958, somewhere in there. They had cotton and in that era we used a lot of the hand picking. The machines were not perfected to that degree. They had come upon a scheme to use the illegals in the picking and they would use radio to warn their foremen when immigration was in the area and the word could be given out to the field workers, "immigracion" and they would all disappear and when the immigration people had passed through and seen there was nobody that was illegal working in the fields and gone on, why then everybody could come back and do their picking.

The Immigration Service is not stupid and so when they had an inkling that something was wrong, because they had, through sources, knew that there were a bunch of people picking, and they would come out there and there wasn't anybody around there, they knew that something was going on. So they proceeded to send an undercover person in there and he told them, "Shoot, they're using radio and the minute that you're seen someplace there why they say, 'There's'"--they called them breadmen I think it was or some code name--'"breadmen in the area. They're heading down the Pike Road.'" And that was their signal. So the Federal Communications Commission and the Immigration Service got together to make a joint case on it. The day that they had all their listening devices and going on there, it turns out that that day the Sudgeons had gotten their license for a radio transmitter issued by the Federal Communications Commission.

So when they were arrested and indicted and so on, why the defense raised is, "You, government, violated the Communications Act." The wire tapping, the same section that applies to wire tapping also applies to radio, shan't intercept and divulge the contents of a message by wire, so on and so forth, air and what have

you. So they said, it's just _____ all over again, that you have illegally intercepted our message. So the federal judge, Dave Ling, listened to it and then he said, "They may have a point on that." We hadn't selected a jury. So I said, "Well, if we handle this thing, if you defer your ruling and I get a jury, why it doesn't make any difference. That's jeopardy." He said, "What do you propose?" I said, "What I'd like to do then is that we've had our hearing of the evidence and I would like to prepare an order which says that you're granting their motion to dismiss because the evidence was used to procure the indictment and so on, which is here." Under that kind of a scenario he wasn't just suppressing the evidence, he was also dismissing the indictment so the government can appeal. But at that state in the development of our law if he had just suppressed the evidence the government couldn't appeal because suppression orders were not a final order. But if he dismissed the indictment then we could appeal and I gave him a legitimate reason for dismissing it following the theory that they were, because we had used that evidence in the grand jury to procure the indictment and so on and so forth. He turned to the counsel there and they said, "Well that sounds all

right because we think we're right. Okay." He says, "All right." He used to call me, "All right, young man. Draw it up."

So I did and we went to the court of appeals. The theory we went on is that it was, for the first four or five instances there they weren't licensed. But on the last day the station was licensed but it was used illegally. And that under those circumstances there, since they were in violation of the Communications Act by using it for an illegal purpose and the statute does allow the Communications Commission to monitor to see if the station, if you're using it within the confines of your license. So that's what we went up on. The court of appeals in San Francisco reversed and cert was granted by the United States Supreme Court.

It came down, we had two separate cases there. We had taken the immigration part of the case up and the United States Supreme Court sent it back to the district court and said, "The days when they were unlicensed you can try those, but when they were licensed you can't, at least as to an immigration violation." Well, that left open the violation of the Communications Act because they had also been charged with that.

Ultimately it was resolved in that they came in and said, "Look, you're going to have a heck of a time trying to go back and get all those immigration people that are involved in that and those are all felonies.

We will plead to the communications violations." So that's ultimately the way it was resolved. But so far as the books are concerned, well, it was part a victory and part a loss on that.

I didn't get to argue in the United States Supreme Court. I got to argue it in the Ninth Circuit, but that's, when you get up the U.S., why the Department of Justice has the solicitor general and very often on a criminal case like that why they will have somebody out of, either out of his office or out of the criminal division will come over and argue before the U.S. Supreme Court.

Mark [B.] Wilmer was my opponent on that one. Now he did get to argue in the U.S. Supreme.

That was probably the, from legal a standpoint, the most precedent-setting things that we had. And after reflection, why it's not all that great in its precedent setting. It was an example, too, of Judge Ling following what he believed was the law but also providing a method where you could test him on appeal if you wanted to.

Other types of cases, the income tax cases were some of the most interesting in that they were challenging.

You have to pull all this material and that's where the accounting course came in.

The Internal Revenue Service is most helpful on those things. You can't come anywhere near putting one of those across without them helping you and organizing and putting it. But that's a real challenge to pull one of those cases.

They all have some little angle or twist to them. We prosecuted a dentist on this one occasion for tax evasion. Had a little romance in there where he had a mistress there along the line. That makes the case not quite so dull. You weren't talking about just the kinds of figures that go in the account book. He showed up in San Francisco to buy an airplane and had a series of cashier's checks that he was using to pay for it. The interesting thing, when he'd applied for one of the cashier's checks, they'd put an address down and as the bank clerk that we brought down to testify about it, he said, "I thought it was a little strange because that address would be about three blocks out into San Francisco Bay." (laughs) So those are some of the crazy things that come along there. The fellow wasn't all that dangerous or

anything, but he just, he ought to pay his taxes,
that's all.

Silverman: You sent the attorney, did you have an investigator?

Holohan: Oh, no. The United States Attorney depends upon the
investigative agencies. Now we work with the F.B.I.,
they handled the occasional bank robberies we have and
all the stolen cars and the crimes on the Indian
reservation, I've tried a couple of the Indian murder
cases and robberies and things like that. The F.B.I.
would handle those.

Silverman: Did you have anything like paralegals?

Holohan: No.

Silverman: How many secretaries did you have?

Holohan: Three.

Silverman: For three attorneys?

Holohan: Three attorneys and the U.S. Attorney, yes.

Silverman: Did they have such things as word processors?

Holohan: No. And they didn't have electric typewriters either.

Silverman: They had the old Underwoods, the old clackety-clacks?

Holohan: Yes they did. And you think of the poor secretary
that did the lands work, the lands descriptions on
those things, that was the murderous thing. You'd
have to proof read those things and they would have
degrees and minutes and east and west and north
quarters and portions of that. Those were terrible.

Silverman: And the carbons you put between the papers.

Holohan: And the carbons there. We did not have the . . .

Silverman: Xerox machines.

Holohan: The first copying machines were those wet copy and they made terrible copies. The federal judge would growl about this, "If you're going to use a copy you've got to be able to read the thing," and so forth and so on. Bill Eubank did a lot of the, well did most all of the lands work for the U.S. Attorney. He's one of these very patient fellows and he would try and fool with that darned copying machine--I think we got the thing about 1959 or something like that, we had the big deal of the copying machine--and he would fool with that thing and adjust it and try and make it come out. It had that special kind of paper. It was a pain.

By that time we moved out of the Federal Building because they were destroying it and going to build this new one and they put us in the old Water Users, which was the old building there at Second Avenue and Van Buren. The Water Users had gone out to their digs out near Tempe and they were delighted. They had a nice modern place out there, at least for that era. And we had their old building and oh, I think it had been built maybe, oh, in the twenties and it was an

old barn. But that's where we held forth until the brand new building was--by that time when they dedicated the new building, I had entered private practice.

Silverman: Well, if you don't mind I think this is probably a good place to break because we're right up to the end of the U.S. Attorney's office. That's what, 1959 or 1960?

Holohan: It was 1960.

Silverman: This is Kay Silverman and we're in a second session of an interview with former [Arizona] Supreme Court Justice William Holohan. Did I say it right that time?

Holohan: Correct.

Silverman: Good. I've been practicing. Today's date is September 20th, 1991, and Pablo Jusem from the Arizona Historical Society is here with us today. At our last session we left off at about 1960 when Judge Holohan went into private practice with the Whitneys?

Holohan: Correct.

Silverman: Okay. Could you tell us something about the law firm that you joined after your career with the U.S. Attorney's office?

Holohan: I joined a law firm there that was composed of a husband and wife team, Lou and Loretta [Savage] Whitney. Lou Whitney had been a lawyer for, oh, many, many years and was probably one of the most interesting people that I've ever run into. Also he was probably one of the most dedicated lawyers that I have had the pleasure of associating with. He told me one time, he said, "I like to be with lawyers." He said, "They are fine people and they do important jobs

and I enjoy being with them." I always thought, Well that--a lot people in the Bar don't have that same attitude, but he did. But when you get to thinking about the trouble he went to to become a lawyer you begin to realize how great a desire he had to join the profession. Lou Whitney came out of Colorado as best I remember and was in the Bisbee area and he was a blacksmith. He took correspondence work to learn his law. He probably had some contact in the Bisbee area for reading law in somebody's office. I'm very hazy about that early history. I never really had a chance to talk to him about that. If you haven't already got him in your chronicles, there's a really splendid man, very important in Arizona history.

As I say, he worked for the mining companies as a blacksmith. In that era, and we're back in 1915 or so, they were using the mules to haul the ore cars out of the mines, so the blacksmith had an important task there as well as the other iron work that you do in connection with any big mining operation.

But Lou eventually managed to get enough education so that he could take what was then the bar exam, which was usually an appearance before the Court for an oral examination and passed it.

Parenthetically, his formal education was fourth

grade. That's as far as he went. But he was a self taught and well educated man.

At the time all this is going on, he has a family.

Well somewhere along the line in the career he managed to get up to Phoenix and was with the attorney general's office. He was always very active in politics and was a devout Democrat. He was a fighter, as you would assume, for the laboring man, having been associated with them in the mines. He was a Catholic but hadn't had very much of a formal education and had been in various communities where there probably was a limited amount of clergy around, but that was his background.

Early in those years, in the 1920's, the Ku Klux Klan had become very active in Arizona and Lou Whitney was called upon to try and draft some kind of a statute or something that could slow them down. He was the one who drafted the famous statute which years later people pointed to as a silly thing. It is that the commission of a misdemeanor while masked was a felony. I was a little bit ashamed of some of the members of the code commission that re-wrote the so-called "new code of 1954", that they didn't realize the background on that. It was an anti-Ku Klux Klan measure so that when the hooded people marched around and trespassed

or burned a cross on your lawn and the like, being masked and doing that act now made it more than just a minor misdemeanor, it was a felony. So Lou was the author of that.

He managed in later years, went into a private practice, and managed to have among his clients for a period of time the Southern Pacific Railway. It was sort of a little different, now he becomes defending the corporation and lots of the accidents that the SP used to have. He and Baker, it was Whitney and Baker for a while. Over the years he represented a lot of prominent individuals that were accused of crime. He was very successful in getting a lot of them declared to be innocent.

About the time that I arrived there he was in the twilight of his years. He had reduced his office to just he and his wife, and Paul [W.] LaPrade that had been with them was joining another firm. So I had the opportunity and I went in there with them and left the government service and started off into the private practice.

He had one client that had been with him through everything. It was the J.G. Boswell Company. They are a large cotton financing and ginning operation. They have extensive holdings in California, farms, and

they did a lot of, they used to have a lot of farms here in Arizona. In fact the Sun City area is about, oh, maybe half of the land was the Boswell farms. They gradually were selling that off to [Del E.] Webb.

In fact, the last couple of operations that involved their farm land, they took a piece of it and went joint venture on it, which was a very intelligent move as it turns out.

The Boswell Company in their financing had Lou as their lawyer. The old colonel that had first established the company was very fond of Mister Whitney and he had cause to be because Lou did a wonderful job for him here in Arizona and in at least one instance in California the high-powered lawyers over there didn't have an answer so the colonel had Lou come over and check something out. It was a complex anti-trust problem and Lou came up with an answer, which made the colonel very happy.

The new management that was coming on after the colonel died, the new management, they stuck with Lou but you could tell they were kind of looking for brighter stars and so forth. But fortunately he held onto the account until he finally died.

During that period of time we didn't have any spectacular cases. The last few months of his life he

had been tapped to be the attorney for the receivers of the Arizona Savings, which was our savings and loan that had gone into state receivership. Their attorney that had been in early in the receivership had a heart attack and had died so they needed a good solid lawyer to come in and help the receivers out, so Lou was tapped for that. I think he only was with them though about six months, because he was suffering from a blood disease, cancerous aplastic anemia I think they called it.

So I didn't get a whole lot of time to be with him, but what I did, learning something about the early history of Arizona and the dedication of a man that was so dedicated to his profession and to the ideals within the profession, I always thought that was probably the greatest gift that I got from Lou. We had opposed each other a few times in cases over the years and you always knew you had been through a law suit when you'd tried a case against Lou Whitney.

Another thing that he pointed out, he was a gentleman, a man of absolute word. Although he would fight you tooth and tong he was always pleasant about it and had a good sense of humor. There was no rancor in what he was doing, he was defending his clients with all the legitimate defenses provided under the law and he

conducted the defense well within the law. There was no problem on that. He was a good example for a lot of our criminal lawyers to study about.

His wife was a very interesting lady, or is a very interesting lady. I understand she is now aged and kind of sick and doesn't practice anymore. She had been one of those young women that had wanted to pursue the law. I may have mentioned it, but I think she was either in the class with Lorna Lockwood or right in that era, so they had both the problem of women in the law and graduating during the depression, which was not a very enviable time to be out and trying to work at the law.

She is a very good lawyer, a good research person, and although she didn't like it, she could try a good case. But she didn't really care that much for the trial work, she really liked more the research work and the writing in the back, and a wonderful back up then for Mister Whitney.

After his death she and I were together for a period of time and the Boswell Company was cutting back so we were really were not going to be able to be on the same scale. So she maintained her separate practice.

She did a lot of probate work. Lou must have had a closet full of wills of people over the years that

they had done work for and as they would die off why usually the probate would be handled by the Whitneys and when the old man died why then Loretta continued to do that. So that was an annuity that was sort of untaxed until the event occurred. So she had done a lot of probate work and continued afterwards to do a lot in the later years.

Silverman: Do you know what year that was that Lou died?

Holohan: I believe it was about 1961.

Silverman: Was Mister Baker still there then?

Holohan: Oh, no. I believe it was Alex [Alexander B.] Baker. Alex Baker had died. Alex had been on the bench for a short period of time. I'm vague about Mister Baker's history, but again, he was a very interesting character too.

Silverman: So was he there before you were with Lou Whitney?

Holohan: Oh, yes, he was there long before and they had dissolved their partnership and Lou had had other people coming in. He had a fellow by the name of Fred [A. Jr.] Ironside. It was Whitney and Ironside for a number of years. Mister Ironside, I believe, had come out of the Washington, D.C., area and was a very, very able trial lawyer. A very intense man, didn't have the sense of humor that Lou had, he tended to be a little stuffy. Excellent lawyer, but he wasn't very

much fun.

When I came into the U.S. Attorney's office, Whitney and Ironside were representing some people that had been indicted for acts dealing with surplus property, shortly after World War Two and they were sort of just getting around to identifying some of the things that had happened. There were some charges that surplus federal property had been purchased through state entities such as schools and ones like that, it wasn't really for the schools, it was to go to some of these people like farmers and others that were using it for their commercial purposes. Mister Ironside was probably the most knowledgeable person around after those cases occurred, on the regulations involving surplus property because he was one of those that once you got a case he went into it.

The matter was tried and one of the principal people involved was convicted, so they did lose that case. It ultimately went up to the Ninth Circuit [Court of Appeals] but again the conviction was sustained.

I didn't know Mister Ironside at all well, but I'd kind of come in contact with him a little bit during that surplus property case. My role in that would be, the attorney trying it from time to time might want somebody to do some research and those of us in the

U.S. Attorney's office that were available, or we made ourselves available, because there were always these last minute things like, check this out and they were still up in court we would be doing some work and then bring the answer to the trial attorney.

Silverman: Now you were originally a Young Republican in college?

Holohan: Yes.

Silverman: So how did you join a Democrat in your private practice?

Holohan: Oh, I've always been friendly to Democrats too.
(laughs) Lou was not that active in politics in the later years. His son Harold [E. Whitney], also an attorney, he had been more of the stalwart. And Lou was getting awful conservative in his old age and he was, although he wouldn't admit it I think he'd even voted for some Republicans along the line. So we didn't have any problem with the politics.
Early in my life, this Dan Seaman, the uncle that I mentioned to you, of course he was a very, very strong Democrat.

Silverman: And your father.

Holohan: Yes.

Silverman: How do you spell Seaman? I might have that wrong.

Holohan: S-E-A-M-A-N, Dan J.

Silverman: Is the Seaman family still in Prescott?

Holohan: No. No, they're, he was the only Seaman in Prescott. His family had, I think, originally settled in Iron Springs. He used to sadly say that, well, they didn't get to Arizona quick enough. He was born in Colorado. And my aunt did not have any children. He had a brother, Hess Seaman, a very able lawyer, who was with Seaman and Beer down here in Phoenix. That's the late Frank Beer of many famous cases. Did a lot of criminal law work and defended a lot of people. Well, Dan, Dan Seaman the uncle, was always very good to me and we used to talk and argue politics a lot. In, let's see, I think it was the 1948 election, he had the Prescott Courier come out and predict that Truman was going to win. The only newspaper in the United States that predicted that and everybody was laughing and said, "You pulled a real green one, Dan. Yes, that's it." He said, "No." Afterwards I asked him, "How did you know?" He said, "Oh, Dewey was running around there talking about atomic energy and peace and love and Harry Truman was talking to the farmers about parity." And he said, "If there's not war and things like that going on, Bill, it's economics every time, that people are interested in." And he said, "Don't you ever forget that." So there may be a lot to that. But anyway he became a sort of

a celebrity after that. He said, "If I collected all the bets that I made why I wouldn't have to work any more." He was thoroughly convinced; it was not just a ploy for the newspaper. In fact, the owner of the newspaper, Mister Stewart, raised a question about that, "Are you sure that's what we ought to do?" Oh, I've had lots of Democrat influence around my life. Of course, a lot of the Arizona Democrats were considerably different than the Californians and the New York, and particularly Northern Arizona Democrats.

Silverman: Were you active in politics during this period in the early sixties at all?

Holohan: Yes. I began to be active in there, because when you're with the U.S. Attorney's office I wasn't allowed to be active at all but as soon as I got out of there I became a precinct committeeman and started doing that kind of stuff. I think our first--let's see, 1960, that was the year, I believe, that Evan Mecham was elected as a state senator. That's the first Republican that had been in there from Maricopa County in a long time. There were a number of House people that were now being elected to the Arizona Legislature. There were people like Bob Myers and I think Willcox and some others whose names don't come quickly to mind. There were a couple of people out of

Tucson. I think Mister Ewing was being elected there.

So I got kind of active in there and would do some of the footwork that is required of precinct committeemen and that sort of thing. Got to go to the State Convention and those sorts of things.

Silverman: Were the Republicans a minority party then in 1960?

Holohan: Oh, yes indeed. The Republicans were very much of a minority party. About the only thing is they would pull off a gubernatorial race every once in a while. In the [Dwight D.] Eisenhower landslide we even managed to elect an attorney general but that didn't last very long. In nineteen--let's see . . .

Silverman: Warner Lee, wasn't he the attorney general?

Holohan: No, no. This was way back to Ross Jones' time. See, because the Eisenhower landslide was 1952 and Ross Jones went in then, all of them, in 1953. As Ross tells that story, when he came down to the capitol January, whatever it is that they were all sworn in, he went into the space in the capitol for the attorney general's office and there wasn't anybody there. Ross didn't realize that everybody in the office figured, well, we've got a Republican and so they didn't even, they figured they were fired and they just didn't come back. Well, Ross, I guess never really thought all that much about it. So they

started scurrying around trying to get even secretarial help and hiring a staff.

But that's the way early Arizona politics was. And certainly since most of them were Democrats in those, that after the primary why a lot of people started looking for jobs if their boss was beat in the primary because they know, that's it, the new man or woman as the case may be has all made their promises and commitments and I'm out of a job. That is unless the soon-to-be office holder came over to you and said, "Do you want to stay?" Ross didn't realize how the game was played at that time. He was naive. He thought, "Well, good people . . ." (interruption by voice on intercom)

Voice: Judge Holohan, Dave Hampton from Channel Five is on line three.

Holohan: So what?

Voice: Shall I take a message?

Holohan: The minions of the press.

Silverman: I'll bet he wanted to talk about that new report.

Holohan: Well, that's good. Call Doctor Block. (laughter)
But Ross was of the idea that everybody would be kind of given a chance and if they were good, fine they stayed and if not, then. . . . But that was the kind of thing that was going on.

Silverman: Were the judges elected at that time?

Holohan: Yes. Judges were elected up until, 1974 was the last time that you had the so-called competitive election.

Silverman: When you were with the Whitneys were you doing criminal practice with them or what did you start doing? A little of everything?

Holohan: When I was with the Whitneys I did mainly the work of the Boswell Company, which was a lot of commercial type of work. To keep my hand in, because there wasn't that much trial going, I actually went over and took a few court appointments.

Silverman: Public defender court appointments? That type?

Holohan: Yes. In those days we didn't have such a thing as a public defender. You went over and put your name on a list as willing to take criminal cases by appointment. I think the munificent sum of two hundred dollars or so was the most that you could get in the thing is all. But the idea was just to keep active and have a few trials occasionally. They had a long list so you didn't receive all that many appointments unless some people were more serious about it than others and were there at every arraignment and that kind of stuff. I'd go over occasionally and find out about where I was on the list and then go over on that occasion. I think I had three or four of those, something like

that. Just to kind of keep going.

After Lou had died, I also did some work for the Stockton firm. Stockton and Aldridge. They were an insurance defense firm. Mister [_____] Aldridge had been a little sickly so they needed some help in that so I went over and did some trial work for them, automobile insurance collision type cases. So I got a little bit of trial work in there. And then there was, of course, a lot of the preparation work, getting the cases ready. The cases of any size, they wanted Mister Aldridge to handle. So I second-chaired him in several of the trials. A Very able lawyer. I learned a lot from him too.

Then after I left Mrs. Whitney, I went down with [W.L.] Farringer and [Champe] Raftery.

Silverman: What year was that?

Holohan: That probably was in 1962, I think.

Silverman: Can you spell their names?

Holohan: Farringer is F-A-R-R-I-N-G-E-R, and it it's Raftery, R-A-F-T-E-R-Y. It's not the Irish Rafferty.

Silverman: Yes, Raftery, that's an unusual one. How many lawyers were in their firm? They rented space to an attorney and then I came in as sort of an associate. Farringer was trying to phase out. He wanted to go off and do other things. He had a huge collection practice. He

had that pretty well handled by clerical personnel, but there were always those occasional ones where somebody put in a counterclaim. He had a lot of medical collection work and occasionally there would be a counterclaim put in there and that usually, the fat was in the fire there, so he needed somebody to try those kinds of cases. So that was kind of the work that I did. I did a little more, when we didn't have that stuff, did a little more on the collection than I really cared that much about. But that was part of being associated with them.

Farringer also had some very interesting clients. Had one lady that had extensive ranch holdings. I remember going down to a hearing before a Forest Service, well, a Department of Agriculture hearing officer. She was being charged with over-grazing her allotment so we went through quite a rigmarole on that and filed briefs and did our various thing on that.

They were very efficient in the way they handled that.

They had an awfully good case as the hearing officer's ruling showed. They sustained at the Department of Agriculture level. Then she was in the course of trying to peddle the ranch and that by the time all this had finally kind of settled down, she had had a sale and the Agriculture Department did not

object to the new owner stepping into her shoes on her allotment, which is really, I think, what she was more concerned with than anything else. But for a lawyer that had an awful lot of collection, that was kind of a strange one. But she provided a lot of litigation for him. She was also into some investments here and there and somehow or another she always seemed to wind up getting in some kind of a battle. So I handled some of those cases.

Silverman: What was the going hourly rate for lawyers in those days?

Holohan: Our firm charged thirty dollars an hour. The Jennings firm had me come over and handle a case with them and their rate was thirty-five dollars an hour.

Silverman: That would be Jennings, Strouss and Salmon?

Holohan: Yes, and at that time Trask. I worked with Mister [Ozell M.] Trask on that case. An interesting one, the charge was that a vegetable, lettuce grower had shipped in interstate commerce lettuce that had too much residue of DDT I think it was. You're not allowed to spray a certain number of days before the harvest and apparently some bugs had come and they were worried so they sprayed it there. So the Agriculture Department inspected and sampled the lettuce and they said too much residue on there. So

that's a misdemeanor and if you do it a second time it's a felony. So they didn't want to be convicted of even a first time. So Mister Trask, actually Riney [B.] Salmon was their lawyer but for that kind of work they had Trask try the case. They didn't handle very many federal criminal cases so they called me in to help as sort of an advisor there, having tried a lot of criminal cases over in the federal courts. I earned five dollars more than our going rate. It was thirty-five dollars an hour.

Let's see. It was a good group. We were a young bunch and not great earth-shaking cases. We were still sort of a small Bar at that time.

Silverman: Do you know how many lawyers there were in 1962?

Holohan: No, I don't. I really don't.

Silverman: Did they have a Maricopa County Bar Association then?

Holohan: Oh, yes, the Maricopa County Bar. It wasn't all that active. It was more the luncheon thing and a speaker.

But they didn't have any of the kinds of things they had--State Bar was not all that great either. They provided the mechanism for the lawyer discipline and they put on the Bar Convention and that was about it.

There was a tendency for the larger firms to have control of the Board of Governors, which caused some dissention around.

Silverman: What was considered a large firm?

Holohan: Oh, twenty lawyers, maybe twenty-five. That was enormous. That wouldn't even make a section in some of them today. There was another group that was rising, making themselves known. They called themselves NACCA at first, National Association of Claimants and Compensation Attorneys. Later on they changed their name to ATLA, American Trial Lawyers Association. They were principally plaintiff's lawyers. They became very active and they had very good educational programs. One of their great strides was to be able to break into the Bar Convention and have some of the famous plaintiffs lawyers around the country come and give lectures there as part of the Bar. That wasn't always that enthusiastically greeted by some of the defense bar. They were very well attended when those speakers came out to the Bar Convention.

I went to one Bar Convention, I think it was one of the last ones they had outside of Phoenix and Tucson and that was in Prescott. You know, I've forgotten what the year of that was, but I think it was, it may have been somewhere around the late fifties, possibly 1960. And then even they couldn't handle us. They had the sessions in the Armory because there was no

hotel around that could handle the several hundred, and that's all we're talking about, several hundred, that would be involved. Thereafter they pretty well were centered in Phoenix and Tucson. San Marcos used to be the place they had a lot of them. They had a good available golf course. A lot of the Phoenix lawyers wouldn't stay there but would come out to the sessions because they were fairly close.

Silverman: Do you remember what the jurisdictional limits were on the courts then? I mean, now it's five thousand under, isn't it, and you go to justice court?

Holohan: Well it seems to me that justice court handled things up to two hundred dollars. You had, Hal Flood, a long time j.p., was holding forth in West Phoenix, I believe, and East Phoenix, I think, was Miss Westfall. She'd succeeded her husband who had been a long, long time j.p., for many, many years.

Silverman: So there was just one justice court in Phoenix?

Holohan: Oh, no. There were two justice courts, West Phoenix and East Phoenix, and then it wasn't a matter of a few years after the sixties, I think, that then they went to something like Northeast and then Northwest.

Silverman: Were you still downtown when you went with Farringer and Raftery?

Holohan: Yes, and I was in the same building. The Luhrs Tower.

There's another great fellow, George Luhrs.

Silverman: How old is that building?

Holohan: Well, it may have been up in the twenties, I think, it may have been built. Sometime in the fifties he put a parking garage in the back of the Luhrs Tower. Luhrs Building I think is even older than the Tower. The Arizona Club was in the Luhrs Building and it actually had some residential accommodations so it was like the Jonathan Club and some of those that you could actually come and stay in the thing. But very, very limited accommodations and I think they gradually phased that out.

Silverman: How long were you at Farringer and Raftery?

Holohan: Until I went on the bench in 1963.

Silverman: That was the juvenile court?

Holohan: Nope. That was just general superior. In the sixties, after the 1960 census figures had come out, the Bar Association was pressing, and the Maricopa County Bar, was pressing the Board of Supervisors to give them more judges. So there was some sort of a program that was being established that there would be, several divisions would be opened up each year and that somewhere in there, I think maybe it was 1958, Paul Fannin was elected governor. I think that's about right. Yes, 1958. He was a Republican. The

Board of Supervisors was Democrat but there had been some reform movements in there and they had two Democrats and a Republican but the Republican and the Democrat actually joined together to run the county. That was the era of Better Government in the county and Charter Government within the City of Phoenix. The City of Phoenix had abolished partisan and went to the non-partisan method. But the Charter Government was a bunch of reform people that had gotten together to achieve that, a combination of some Democrats and Republicans, although the real old-line Democrats said there was more Republicans in it than there were Democrats, which was probably true. In the Better Government they had, many of the same faces that were in Charter were also in what they called the BGA. So the Board of Supervisors, then, was not all that hostile to the idea of having a, the Maricopa group anyway, of having a Republican governor. In 1962, the Board decided to create four divisions of the superior court. Two of the divisions would be elected and two of them would be appointed by the governor and they timed the openings to accommodate that.

Tape 4, Side 2

Holohan: In the 1962 election Thomas Tang and Charlie [Charles C.] Stidham were elected. Charlie Stidham, of course, had been the county attorney. I think Tom had been in private practice. Earlier he had been an assistant county attorney, but I believe he was in private practice at the time he was running. So they were elected and that left the two appointments then for the governor. I'd talked to some people and they thought I would be considered, so . . .

Silverman: You were a young man then, weren't you?

Holohan: Yes. In my thirties.

Silverman: You must have been one of the youngest judges appointed.

Holohan: Yes. Eddie [Edwin] Beauchamp may have been younger back in the forties when he was appointed. I've never really gone back to research that. And Erwin Cantor was the other one that was interested. Ultimately, some time around December I guess it was, why the governor announced the appointment of Irwin Cantor and me. So in 1963 I was sworn in as superior court judge. My division was sixteen. Irwin Cantor drew seventeen. So we had seventeen superior court judges there in 1963 and we were off and running.

Silverman: Today there is what? Sixty-three?

Holohan: It's hard to keep up with it. I really don't know. I think that I saw they were trying to fill sixty-something or another. They have some meetings of the commission to send up names to the governor to fill some vacancies. I know there was a sixty part but I don't know what the right hand figure was.

We had, I think we had two court commissioners, Old Mister [Edwin D.] Green and Doug [Douglas H.] Clark. We had seventeen superior court judges. Each one of the superior court judges had their own probation officer. We had one juvenile court judge and he administered the juvenile department.

We had a presiding judge but the presiding judge carried his full load of cases plus doing the whatever amount of presiding that they were doing at that time.

There's very little that the judge was doing, really, as presider. He was the chair at our monthly meetings. He signed certain documents that required a presiding judge signature. And that was pretty much it.

We were on an assignment system which was administered out of the court administrator's office and it was a _____ mess. We really had no good administrative people and the fellow that was handling the juggling of the cases had absolutely no background in that and

he handled that more like an auctioneer than anything else.

So that's, when I first came on there, that was the assignment system. Nobody was really very happy with it, but there were a lot of the judges that did not like the idea of running a calendar and having to administer it themselves. They didn't want to do administration. They said, Fine, let somebody else do it.

There weren't enough rooms for the judges, so the four new divisions were actually placed in a commercial building I knew as the Ellis Building. It's down there in back of the Arizona Title Building on Second Avenue and Monroe. Prophetically enough, in the thirties that's where my dad's office was, on the second floor of that building. Of course it had been considerably remodeled and dolled up since his day. I was on the sixth floor. We were there the better part of two years in those rented quarters. They just gutted the top two floors and put the four divisions in there. They were building the new courthouse, the new superior court building, which is, I guess it's on First Avenue . . .

Silverman: And Washington?

Holohan: . . . and Jefferson. On the east end of the complex

there. Oh, and that was a brand new spanking building and it had nine floors.

Silverman: Is that the building that has the county law library in it?

Holohan: Yes, the county law library. I guess it's the East Courts Building or something like that now. So that was going to be built. Yes, it was started, I guess. So in those early years that's about the way of the composition of the court.

We did have so-called specialty assignments. Since we were on an assignment system and we had compulsory pre-trial, we'd have a judge, you'd draw a pre-trial assignment. One judge would be conducting pre-trial all month long. Then we had two judges that were assigned to hear criminal cases. We also had . . .

Silverman: Were those like permanent assignments or rotating?

Holohan: They were rotating assignments. Oh, and we had another judge who was called special proceedings. That's one where you could bring in your temporary restraining orders, your orders to show cause of one kind or another, which required some sort of emergency hearing and decision. That was also the one that you had all the contempt citations there on failure to provide or pay your child or alimony. It was a real dinger of an assignment. But each judge would draw

his turn in the barrel so to speak there on those assignments. It was on a rotation basis.

Since that first year, being the junior of the juniors, vacations were also determined on seniority basis, so I had a June vacation. In that era you got a month off though, so that was kind of nice. But then you came back and drew a variety of assignments in the summer.

As it turned out, I found out that the summer really wasn't all that bad because the lawyers, most of the judges were gone, most of the lawyers were taking vacations and it was an unwritten law, a tradition that if an attorney had a vacation, why that was good grounds for a continuance. For the most part they didn't set many civil cases during the summer months. Criminal cases, that was different. People were entitled to get their cases tried. So you had a fair staff of the county attorneys that were there, deputies, and the private attorneys defending the people there, well they had to be there for their defense. I don't remember very much about the statistics at that time. I drew the criminal assignment with Larry [Laurens L.] Henderson, a very senior judge. Still alive, and there's a very interesting man to get with. At ninety, he's still

pretty sharp.

So Larry Henderson and I drew criminal assignment there, probably somewhere around 1964. We were both pretty strong for moving the cases along and we had an agreement that if somebody disqualified him, because you can have a free disqualification, why then he'd just send his case to me and I'd send my case up to him. The lawyers would deny it, but on occasion, if you had denied a continuance, the next thing that you had was a change of judge.

Silverman: That rule hasn't changed, I don't think.

Holohan: We just smiled and said, "Okay, we'll change your judge. You go up and see Judge Henderson there. He has a jury that's ready to try your case." (laughs)
So away you go.

That was an interesting bench at that time. Rawghlie [C.] Stanford [Jr.] was the presiding judge. A good trial judge. He didn't like administration, of all the things to be presider. He had a very even temper, a very nice fellow. He had come from the great Stanford family. His father was justice of the Supreme Court for many, many years and his dad had been on the superior court bench too, had been governor of the state.

His brother [Sharon B. Stanford] was an attorney, but

Sharon was into probate and some real estate matters.

He didn't like contention, so if things got contentious he'd get some other lawyer to come in and do the trial bit.

But Rawghlie Junior was a good judge, a good lawyer and worked very hard at his task.

Henry [S.] Stevens, still alive, was for a while the only Republican on the bench, had been with the Jennings firm, was a very able lawyer and a very able judge. He was a great one for detail work and he loved to work on rules and development of administration. The other judges were more than happy to have him do that type of work.

Warren [L.] McCarthy, who had been a deputy county attorney, well, not deputy, the county attorney, was on the bench. He was a very able trial judge and a person that the lawyers liked to try their cases to. He moved things along but he was a very easy judge to try a case before.

We had Yale McFate was on the bench at that time.

Later he was to succeed Rawghlie Stanford as presiding judge.

Francis [J.] Donofrio was the juvenile court judge.

That's the Donofrio family that had a candy store and of later years the flower shops. That's the Donofrio

bunch. Francis was a person that everybody liked and he had a world of friends. He was a very kindly man.

Made a mess out of the juvenile court. I think primarily because of his choice of personnel. It was a lot of political hacks were out there in the juvenile department. The later reforms made marvelous strides to get juvenile back to where it is today.

Silverman: Is that when the case In Re: Gault came along?

Holohan: That didn't come along until Francis had been out of that--that's around 1967, 1968 that Gault came along.

The actual juvenile case might have been over and being handled by [Robert E.] McGhee, but by the time it finally got up to the U.S. Supreme [Court] it was probably 1967 or thereabouts. Or it might have been 1968.

Tommy Tang was juvenile court judge when Gault came out. That turned things upside down too. There were problems with that. It called for some administration and Tommy really just would not make the hard decisions that were necessary to accommodate the Gault. He did manage to get a lot of lawyers to volunteer to come out and represent indigent juveniles, which was a major step.

But at the same time while he's doing that, he didn't design any kind of a sensible trial schedule. The

cases were always set at nine o'clock in the morning and two o'clock in the afternoon and they might set three or four of them that were to be tried, that were not just there for disposition but they were actually for a trial. Here were these lawyers that had volunteered and they come out at nine o'clock and they sit around and maybe they don't get in until about eleven o'clock or something like that.

So there was a lot of dissatisfaction with that kind of thing. For some reason he would never change that.

People had brought suggestions to him and he had a committee that had gotten together one time about it, but never a decision was made.

So I wound up being there juvenile court judge in 1969. Here I've inherited this kind of thing. My first major accomplishment was to have a trial schedule. The first thing that we did was start assigning days. We would assign trials to certain days and dispositions would be the other days. And we provided that you'd have a certain number of fixed trials so it would be set at a given time and they would actually be scheduled on those.

Silverman: Now the juvenile court judge, was that assigned by the presiding judge?

Holohan: No. It's elected by the members of the court. I

hadn't been on the bench any time at all until I had been firmly convinced that the juvenile department was a mess. I started to try and get Francis out of there, to get the judges to make that hard decision.

Silverman: Did you have some experience with the juvenile court yourself? I mean, how did you discover that? From other lawyers?

Holohan: I got called down to sit. There were times when Francis was off at a conference or whatever and they would call another judge in to go down and hear juvenile matters. So I got called upon because most of the judges didn't like juvenile anyway, so I was taking a taste of all the assignments there. Whatever they said, well, okay, if that's part of the judging I'll go down and see what it is. So I got tagged for the assignment a few times and I went down there and my gosh.

Among other things it was taking forever to get some kid in to get his disposition. By the time that you got him or her in there, why it looked like that they, some discipline ought have been employed, why they had been good for three months or so. You kind of wondered, did they really associate that the bad act and the bad consequence went together or did they say, well it doesn't pay to be good.

The kinds of things, the recommendations, some of them were coming out there, you kind of wondered, "Does anybody really believe the kid is responsible for his acts?"

I think probably the first inkling I had that there were some things awry was when Charlie [Charles C.] Bernstein was the juvenile court judge and I was in the U.S. Attorney's office. We would have people coming over to the U.S. Attorney's office trying to have a federal offense made for some kids. We used to say, "Well we don't handle that. The locals are responsible." Then they would pour out their heart about some kid that had broken into a freight car and this was the twelfth time that he had been involved in delinquent acts and that they were treating him as a poor downtrodden and they weren't doing anything. So I knew that there were some that had some peculiar philosophies over there, but I had been out of touch with that for the longest time.

And you found that there were a variety of people at the juvenile department. Some of them were college trained and this was part of their profession. Then you found some that they had been involved with some politicians and lost a job maybe as a result of a bad turn in the elections and that they could always find

a job off of juvenile. Johnny Walker, the chief juvenile probation officer seemed to be more involved in taking care of some of those needy politicians than he was in producing a good juvenile department. About that time there were some citizens who were very dissatisfied, so they started a campaign going. They had an attorney, trial attorney at that time, went out and kind of put together an investigation and they were talking about some specifics and it wound up that a citizen's group got together and they came out with a report, very sharp in condemning the juvenile. Anyway, that didn't exactly make me that popular with some of my colleagues on the bench there, but nevertheless in I think it was 1964 we had a, at the judge's election to decide who would be the new juvenile court judge, we chose Jack Hays. Interestingly enough it was right down party lines. They were about, let's see, it was nine Democrats and eight Republicans. All the Republicans voted for Jack Hays and Charlie Stidham voted for Hays to be the juvenile court judge, so it sort of broke ranks with the old solid Democrats. He just said, "It's terrible, there's got to be a change." And so there was.

Jack Hays went out and became the juvenile court judge

and there were a lot of marvelous things started happening, among which is that they got a new chief juvenile probation officer from out of state, came in and didn't have any problems with the politics and they started getting rid of people that were not really qualified to hold those spots down. Got a lot of community support and they actually built an additional facility out there for the juveniles. Got the support of the Board of Supervisors to try and remodel some of the Bastille part of the detention. The year 1964 also was--at that time, when a judge was appointed, you served until your successor was elected and qualified, and you hoped to be your own successor. So a judge appointed, at the next general election had to run. Arizona's so-called judicial election system was supposedly non-partisan. On the ballot you were placed in a section where there was no party designation. But in order to get on that part of it you had to be nominated from a primary. So the judges were nominated and then you were placed on the ballot. In 1964 was my first experience as a candidate for office and it was an education. Going around Maricopa County, it just seemed there were an awful lot people. Judges went around to all the little coffees and the meetings and so forth that were held. You did your

little talk that you had. Many meetings there were more candidates than there were people in the audience, but that's all right. People that came were entitled to get their little spiel.

Also, it was during that period of time, Republicans were being much more successful with judges than they were with many other candidates. It came down to the idea that in analyzing judicial elections, forty per cent of the people that went to the polls didn't bother to vote for a judge.

In 1964 you could look over the precincts after the election and in some of the south side precincts the people there had been taught to vote straight party, so in a precinct, Julian, there were about nine hundred votes cast and about eight hundred and some odd of them went for the Democratic candidates. In the judicial race only about three hundred votes were cast in that race, so maybe the Republican would come out there fifty votes behind whereas the Republican county officeholder or state officeholder would come out some eight hundred votes behind.

As you went up into the northern districts there and into Republican areas, a device had been developed that cards were passed out to the Republican registered voters that told them who the Republican

was in the judicial race. So that more like eighty percent of the Republican districts voted for judge. So up in the Republican districts very often the Republican would have a six hundred vote margin. So losing the south side precincts by fifty, seventy-five, a hundred votes and so forth really didn't make all that much difference because you'd make it up in your other precincts there with your four to six hundred margin.

So at times where all of the, well not all but most of members of the legislature from Maricopa County were Democrats, the two state senators were Democrats, most of the state officers were Democrats, and they were picking up big margins in Maricopa County, all the Republican judges would be elected.

Silverman: Well that isn't true today under the merit system, is it?

Holohan: Under the merit system, no. We still have an awful lot of people that don't vote in the judicial election. I haven't followed it for some period of time to see what those statistics.

The person that had analyzed this was Bob [Robert L.] Myers. Before he became a judge he'd been in politics, in fact had been state chairman one time. He was sort of the thoughtful type and he was the one

that studied trends and studied elections. So when a Republican was running for superior court judge, like the first time I ran and of course had opposition, my friend Hays said, "Go talk to Bob Myers." In talking to Myers, he said, "Well, with judges, here's what the trend is and what it has been. You can do what you want but since not very many people vote in this area, you don't really don't need to spend much money with signs and so forth because they just don't vote. If you have limited resources"--which we did--"why then you're going to have to put your advertising and efforts into these other areas." It was extremely helpful.

Silverman: So you ran on a county-wide basis?

Holohan: On a county-wide basis. Yes. In 1972 I had another experience where I ran on a statewide basis, for the Supreme Court. Same system. When you're appointed to office, the next general election you had to stand even though the term, like I, in 1972 I was appointed to fill out the unexpired term of Jesse [A.] Udall, who had retired. But in that same year, I had to run and had a four-year term instead of the normal six-year term because Jesse had just kind of gotten into the term and he had a four years remaining on his term.

Jusem: When did you do fund raising?

Holohan: In fund raising we tried, the Republicans had kind of developed this idea, and again Myers and Hays were some of them that were doing this, to try and insulate a judge from receiving money they set up a campaign committee and the campaign committee did not show the judge who were the contributors. It was the attempt there to try and get that. Interestingly enough though, some lawyers would insist on bringing their contribution to the judge. So that's, yes, there were things that you would say that they wanted to make sure you to knew how friendly they were. But that was the way that we tried to handle financing.

Then in those years, the county Republican committee advanced small amounts to judges. I think in 1964 I got five hundred dollars. In 1972, in the state campaign, I think probably a couple thousand dollars.

Sometimes the party would add the judges in some of their mailers and they'd allow you to use space in the campaign headquarters, those kinds of things that they'd figure were sort of in kind support. Sometimes while using the campaign organization, get out your literature and so on was also a very helpful along those lines.

Silverman: So Jack Hays was after Thomas Tang?

Holohan: No. He was after Francis Donofrio.

Silverman: Okay. So it was Donofrio then Jack Hays. How long was Jack Hays the juvenile court judge?

Holohan: Two years.

Silverman: Is that what the term was, two years?

Holohan: No. It was one year. Each year the judges made the selection. He said he only wanted it for two years.

Silverman: Okay, so then . . .

Holohan: And then Tom Tang took it.

Silverman: And how long was he in there?

Holohan: Three.

Silverman: So you started in about 1967?

Holohan: No, I started in 1969, because Hays took over, let's see, probably in July of 1964 and then Tommy took over probably in July of 1966.

Silverman: And when did Jack Hays go to the Supreme Court?

Holohan: He went to the Supreme Court in 1966.

Silverman: So he went right to the Supreme Court from the juvenile court?

Holohan: Yes. He had been a superior court judge since, oh, December of 1960.

Silverman: How did you like being the juvenile court judge?

Holohan: It was the most challenging assignment I ever had and I don't think I . . .

Silverman: Did you find it depressing after a while? Isn't that

what most of the judges happens? They get the burnout from the sad human statistics that they see?

Holohan: I think some judges do that. I took some good advice from Hays and only gave them two years. All the hotshot writers and so forth want the judges to make this a career and all that. I think that's baloney, bunk. And it's not productive. Just one of the things you allude to is the burnout. It should be terribly discouraging to them because they don't seem to be accomplishing just a whole hell of a lot. I think if someone wants to get into that for some period of time, I think they ought to spend a couple of years on it, have a sabbatical or go back to the general civil or probably even go back to the general criminal because you will see some of your graduates coming through there and you'll read about, in the probation pre-sentence reports you'll read about the efforts that have been made by others on this. Have a year away from juvenile, maybe even two years and get time to think and muse a little bit on that, and then you can go back, take another swing at it. But the . . .

Silverman: Did you have any memorable juveniles that did turn into adult criminals?

Holohan: Not that I can think of. I sat as a juror one time

when I was on the Supreme Court. We didn't allow any exemptions from jury service to be used. I went back to sit on Maricopa at a criminal case. I was called into the judge's chambers and they asked me if I had seen the juvenile before or remembered him. I said, "No, I don't." "Well did you see him at Fort Grant," which was in those years, was the reformatory or juvenile institution. I said, "Well I've certainly been up to Fort Grant on occasion but I couldn't tell you that I remember this young man from Adam." I just thought, knew, I thought sure as anything well that was the end of that. I wasn't going to have to sit on that case. Darned if I didn't wind up being chosen one of the jurors on the thing. And we acquitted him.

But that's the only time I can consciously remember that I probably had an alumni on the thing.

I had some very mean juveniles and generally I transferred those to adult court. They were beyond our expertise and handling.

I had really a good staff. They were enthusiastic, dedicated and with youth there's always the promise that maybe we can change them and that they haven't become too fixed in their ways. And if you do, gosh, you've got a lifetime, then, that you have rescued and you can make a real productive citizen. So it had, in

that challenge, it had an enormous amount of hope. Then there's a little device that smart juvenile court judges do: any chance they get they go to the high schools and youth activities where you see the wonderful things kids are doing. So about the time you think that every kid in town is a car thief or a burglar, then you go to a high school where they're giving out the awards to the youngsters for the things that they've done and where you get to see these bright young people and learn of some of the things that they had to do to make these awards and you say, "Oh, gad, aren't we lucky to have a generation like this?" So I think there, if you keep your balance like that then you can get things in perspective.

Silverman: You had your own children that you were bringing up at that time? How old were they?

Holohan: I had four children. Let's see, in 1969, let's see, the oldest would probably have been in high school, just entering high school. They told me that that was not one of the better assignments so far as their social standing was concerned.

Silverman: Did you ever see any of his acquaintances in court?

Holohan: Well I didn't see any of their acquaintances, thank goodness, but I did see some of their classmates. I hadn't been on the bench very long and my son hadn't

been in high school very long, and one of the people, I guess the class ahead of him there, had come up before me for drugs and I'd sent him off to Fort Grant. One of the kids, not threatening or anything, mentioned, somebody in conversation, said, "Well where's so and so?" They said, "Mark's dad sent him to Fort Grant." Which is not all that good for a kid.

But they were good, the kids were very good. The survived it.

But it was, it was tougher on the two older ones with their being into the teens, why they were dealing with that age group that was the grist to my mill, if you want to use that kind of a term.

Tape 5, Side 1

Silverman: All right. We had a little break there. We were discussing Jack Hays who went to the Supreme Court and you went on as the juvenile court judge. I have another question about that. As the juvenile court judge did you see your prime purpose as protecting society from these recurrent juvenile criminals or as trying to change these juveniles or was it a combination?

Holohan: Probably I think you could say a combination. But I

always looked at the role of the judge in any kind of a criminal matter is that in the actual hearing process, the adjudicatory process, that we are following the constitutional guidelines. But that once the decision is made, that the judge's prime responsibility is public safety. I'm sure that I must have been in disagreement with many of the juvenile court judges. That was my philosophy in juvenile court.

I certainly wanted to change kids for the better, but I was not going to sacrifice public safety for some sentimental kind of approach to this. So if there was a, let's say, a chancy situation the odds had to better for public safety, in my judgement, for them to stay in the community. If it was tipped the other way, against public safety then they didn't stay in the community. And that's the approach that I used in juvenile court.

Silverman: Were there alternatives to incarceration?

Holohan: Yes.

Silverman: Did they have drug treatment centers, that type of thing?

Holohan: See, there was another thing, too, that I've never been able to get people over, was treatment. If they're sick they shouldn't be in my court. They

should be handled through a medical facility. Another thing too is if you're sick then you're not responsible. But the old jargon of corrections and particularly of juvenile was in the, as some people it, the medical modality. Certainly that's the way it's taught in universities and the terminology that's used, but I think it's false and I think it's false for the kids too. What you're doing, if you're going to tell him that this is treatment, that he's on probation and he can no longer go around with the friends that he had before, why he knows that's phony.

That's not treatment. That's the same thing that his dad and mom were putting on him there. But that I digress on there.

We did have other alternatives in the so-called rehabilitation. We had probation, we had foster homes, and we had private organizations and institutions that could take the juveniles. Funding was somewhat limited for the private placements, but there was funding available.

The state program was kind of poor. It was depending more on sort of the military model. Also they used physical discipline up in Fort Grant for those that were really misbehaving. And even after you got out of Fort Grant, then the program for, let's say, parole

or follow-up afterwards was very, very poor.

We've heard today in the news and so forth about the criticism of the Department of Corrections. Well the attorney general and I have seen eye to eye on that for a long time. Now we have separated the juvenile facilities from Corrections and made a separate department. Hopefully that will make some changes, but the Corrections Department had, it had been a total failure with adults and had been largely so with the juveniles. Of course they claim it was lack of funding and to a degree that's true.

But I never felt that they even had the right idea of what they were trying to do. With these kids you have a very short time, really, to work with them, and you've got to prepare them to be able to be a self-sufficient adult. We know that education is terribly lacking in these kids. Most of them had little or no interest in school, certainly in the subjects that were being taught there anyway. So that there was a weakness that had to be overcome right there is that we had to get them educated. They weren't going to be going on to college so at least you could educate them in some sort of a work ethic and also to try and get some sort of idea in them of what they were wanting to do. You can try and see what their talents are and

even provide some sort of training there while you have them in a physical controlled environment, to work with them and get them started along there for the career that they're going to have.

I don't think it's changed much since the days I was a juvenile court judge, is the kids were sent to these institutions, the state institution anyway, and they didn't come back all that great.

Silverman: Well do you see the grant like of In Re: Gault, which was 1967 or 1968, do you think that's of benefit to the children to have more legal rights, like in a regular adult type criminal situation? Or would you prefer that they be handled more as children with fewer legal rights but more, I don't know, caring or compassion or something from the juvenile authorities?

Holohan: I think that Gault was correct. While [Abe] Fortas may have come down kind of hard on the juvenile system in a sense, there were many of the things that he pointed out that were so true. Without the protections of a check and a balance, a juvenile court judge can be an arbitrary old devil, and giving us this business about being your friend and a warm and kindly fellow there, that didn't come through in the reality.

And again, from my kind of perspective is, the

juvenile court judge in the few sessions that he's having with some juvenile is not going to be his substitute father and his friend and it distorts the entire role of the judiciary in juvenile. If you're going to get into that, I'd get the judges completely out of that and just have them in some kind of a social worker setting there. But if you want to get judicial people involved into it, then you're looking at the role that's defined for that type of person. Unfortunately some of the judges thought that they could be social workers and they were lousy judges and lousy social workers combined.

Gault, I don't think has set back juvenile court at all, if anything it's improved it. It puts a check on the system and prevents the arbitrariness that sometimes occurred. The fact that lawyers are introduced into the system I don't look on as a negative. It's true that the . . .

Silverman: What about today's situation where in a dependency delinquent situation where the child has a lawyer, the mother has a lawyer, the father has a lawyer and the state has a lawyer? Do you think that's kind of hard on the public resources?

Holohan: Oh, definitely. From the cost basis that has a terrible disadvantage from that stage. When you look

at it, the interests there are certainly not all the same and that we have been, at the stage that I came into juvenile court we were concentrating on delinquency and that they hadn't reached quite that development with the dependency situation. But when I was on the high court we started receiving the cases as developed in the dependency and from what I've read since then, you have a youngster that has some desires and interests there and who puts those across?

It's not as common for you to have both a male figure and a female figure contesting in the dependency situation. Far more frequently it's a one-parent situation. But occasionally you do have the two and as you say, they have their attorneys. But the child very often doesn't even attend the hearing and who has taken the trouble to go into it? Well, the social worker. Well, how do we know that? Some areas have now come up with the idea of--I've forgotten the name right at the moment--an advocate.

Silverman: A mediator or arbitrator?

Holohan: Well, it's not an arbitrator. It's a child advocate. The role of that person varies in jurisdictions, sometimes they're paid employees, some that they are actually a volunteer. The role of the advocate is to get with the child and find out what the child's

desires are. Now, the younger they are, the more difficult that is. Also the child advocate is sort of the eyes to see what the social worker is doing and what the social worker's plan is. Also to see what the situation is from the parents or parent's side and to try and explain to the child what's happening and to spend a great deal more time with the child than the social worker can. We know that their case loads are high and they're overworked and they're trying real hard to accomplish some great thing and they're doing it within a bureaucracy with all its rules, regulations and. . . .

So perhaps lawyers are not the best type to be having in that child situation or that their role should be very limited, that when the information is brought to them, like from a child advocate, that they can then use their talents to see to it that the judge listens and considers the interests of the child and the interests of the child as communicated by people that are totally in the child's corner.

They hadn't gotten that far in the development when I was in juvenile. We had gotten the representation in delinquency. We had gone to getting the public defender to include juvenile cases, delinquency cases within their jurisdiction and that was very helpful

because you could have the person permanently assigned to that kind of work and working with juveniles. We also had a revision of the code, the juvenile code, in 1970. I spent a lot of time working on that with the legislature. In the 1970 code there were a lot of things that were brought into it. For the first time we're really separating delinquency and dependency and putting them separately. We are also setting up a different approach to it and for the first time they are talking in terms of the concept of appointed counsel in those types of cases. We find that, the first time, the introduction of the protective services.

Silverman: Did you work through the judiciary committee at that time?

Holohan: Yes.

Silverman: Who was in that committee? Do you remember?

Holohan: I remember John [B.] Conlan [Jr.] was chairman. In the sub-committee [_____] Thode.

Silverman: Were there very many lawyers in the committee?

Holohan: No. The only lawyer was John Conlan. The thing started out in . . .

Silverman: Do you find that's true in the entire legislature? Few lawyers?

Holohan: Oh, yes. I think that in that legislature John Conlan

was probably the only lawyer and then over in the house they probably had two lawyers. In 1970 they're going to have the new juvenile code and the chairman of the house judiciary was making this his big career, to have the new juvenile code, and it was House Bill One, so that rings all the bells and so on. I've forgotten the poor fellow's name. He had been a lawyer, I believe it was in New York, come out here, had been a research analyst with the Arizona Supreme Court for a period of time. Didn't really need to practice law. One or the other side, whether wife or husband I don't remember which, had wealthy parents and funds had been passed down. Inherited wealth is very convenient.

Silverman: So if you had the ear of the judiciary committee could you get your bills passed pretty readily or was there still. . . .

Holohan: It was a tough fight. The house started out to be a disaster because the bill that had originally been proposed, House Bill One, had all kinds of all the great social things for juvenile delinquency. For instance, it would require that in a delinquency hearing you could not have a combined hearing. Even on the delinquency act you had to have them one at a time.

Well we had about one case where six or eight kids had been trying to drive a family of a different race out of a neighborhood and they had combined to do various acts there. Well that meant that the victim would have had to come and testify six or eight times. But the chairman of the house judiciary knew so damned little about law that he didn't really think about things like that. But he had the glamor of the thing. The only way I managed to get some changes in the house bill was through attending meeting of the chiefs of police and told them, "Now you know of course, your officers, in cases like this, are going to have to come in and testify six or eight times." So they went up and jerked the cord on a couple of legislators that they knew and the next thing you know, things slowed down and there was a few amendments.

It came out of the house and John Conlan was chairman of senate judiciary and I went to see him and I said, "There are problems." He said, "I will assign it to a sub-committee and we'll do a line by line." So it went to a three-person sub-committee and that's, true to their word, they did line by line.

It was very helpful too, at that same time there were three juvenile court judges. I was one of them, Pima County and I think Mel [Melvyn T.] Shelley was the

other from Navajo, he was trial judge from Navajo at that time. We were assigned by the Supreme Court to write some juvenile rules. So we worked those up and presented them to the Supreme Court and they had comments from some others around. So at the time that the legislature's doing this thing we came out or the Supreme Court came out with a set of juvenile court rules.

So John Conlan was very kind in alerting his sub-committee that these rules were coming out. When they did come out a couple of the law professors down at the University of Arizona reviewed them and one of them who had been involved in some of the work on the juvenile legislation wrote to the senate judiciary chairperson, chairman, advising him that probably there could be substantial reductions in the sections of the proposed code since the court had acted to make rules. That helped us a great deal. Now where everybody admits, Well we don't need all of this, why then the sub-committee could feel very comfortable in going through. So a fifty-page bill came down to about twelve pages. It's the same code that we have now and is working pretty well.

Silverman: Did you adopt it from another state or a uniform law or was it just totally hand made?

Holohan: No. I don't know where the chairman of the house judiciary got his thing. I think some of it came from the national crime and delinquency group. They had a model code and I think he took some of the provisions there. Of course theirs was a very social one and it pre-dated Gault. So they couldn't really adopt that one. And then he had some others that I think he must have just dreamed up, thought they were good ideas.

Silverman: Did you have a commission on uniform state laws back then?

Holohan: Oh, yes. But I don't think that there was such a thing as uniform juvenile code. The National Conference on Crime and Delinquency had their thing. I don't remember whether the National Conference of Juvenile Court Judges had something or not.

Silverman: So when was the last year you were in the juvenile court?

Holohan: It was 1971. One of the things by the new juvenile code allowed for more than one juvenile court judge, if the county wanted to adopt that. Up to that time, I was the last single juvenile court judge in Maricopa County but the workload was getting enormous. During that period of time I had adopted, prior to juvenile, if I was going to be late I always called my wife and said, I've got something and I'll be another hour or

whatever it was, but just to alert her. We just agreed, after I'd shortly been on juvenile court, that there was no use in calling because I was never going to be on time anyway. So just, I'll see you when I see you. And that's the way we worked on it. Usually after all the, after the five o'clock and that kind of stuff, then you could get your paper work done and some reading and things like that. So it was, it was getting to be a tremendous task.

I had tried as much as possible to make myself available, too, for administration, because I knew that the things that Hays had created and was bringing along, they came to an abrupt end with Tommy. He just wasn't an administrator. It was terrible. The chief juvenile probation officer can only recommend, but he can't do anything unless he's sure the judge is in favor of it. If the judge is non-committal, I don't think they had that good a relationship where he could feel that he could take the affirmative and feel that he'd be backed up. So there was a lot of changes of administration that went on.

Then there were a lot of new programs that were coming on. Volunteer thing had started. Volunteers in probation where you had a volunteer probation officer that would give some special time to kids. It went

farther than a Big Brother, Big Sister thing because the probation officer had a lot more authority than a Big Sister or a Big Brother. The youngster had to realize that, you know, this person's trying to be friendly and do things, but they do, they have some clout because they can go back to the judge and the judge told you that if you get in any further trouble we're going to send you to Fort Grant. So there was that involvement. But there were some of the youngsters that needed some special attention, so the volunteers were. . . .

Within a short period of time we were up, oh, seventy volunteers, and that was over a matter of maybe six or eight months on there. They had been screened and by screening I mean everybody had to go through a psychological. We weren't going to have any people that had problems with children that were involved in that. And we didn't want people who were not emotionally stable, that realized what the role of probation officer was. So we'd do that. We lost some people who thought that was not a right thing and they weren't about to do it and we said, Fine. They had gone through training as to what they were and after we actually swore them in as volunteers some of them appeared later on in court where a youngster had

failed and the volunteer was in making the presentation and making the recommendation whether to continue or to commit.

So that program was in full swing. Getting these things started, of course, takes time because they have to have the judge there. Although we've got a very good volunteer coordinator and all that, nevertheless they've got to believe that it has the support of the juvenile court judge. So you had to be there for programs and things like that. That's fine because that's what you're paid for. Here was another dimension, you're getting people in the community that know what's going on down in juvenile court. I think that's terribly important because there's so much misinformation that gets out that it's good to have people that have seen it. If you're not doing a good job, well then that can be a disadvantage.

So right around that time, 1971, the court authorized a second juvenile court judge and Warren [C.] Ridge was elected to come down and be and--we were full-time juvenile court judges. That was a big help. That took a lot of load off.

I told him I was going to be rotating out. I was in my last year there so that he would be the president. Because the code provides that, and wisely so, that

one of the juvenile judges will be designated presiding judge. So I told him, "You'll be the presider and I would suggest that you think about who you would like to have as your co-worker down here, as your associate juvenile court judge, because you've got to have somebody you can get along with. When you've decided on that I'll help you try and sell it to the judges on there. There may not be that many of them that are interested in the job anyway."

So Warren Ridge was the associate and after I left he became the presiding juvenile court judge. I'm trying to think, I believe that he got Bob Broomfield to be his associate. I think that's right.

Silverman: Tell me about the courthouse. The juvenile court was in the same courthouse then as the

Holohan: Juvenile court was divided. There was one courtroom in the old courthouse, one courtroom and offices that was still maintained for the juvenile court judge. And then there was the Durango facility, had the detention and delinquency. Hearings were held there and the probation department had their offices.

Silverman: Where was that located?

Holohan: That's out on Durango, oh, about roughly Thirty-fifth Avenue, out on the west side of town. At that same time we were planning a new juvenile detention

facility which was to be followed then by a new juvenile court facilities.

Silverman: Is that the Adobe Mountain facility?

Holohan: No, the Adobe Mountain facility is state. That was out off of the freeway north of Deer Valley.

As it turned out, the new court facility as designed, they pulled the juvenile court judge totally out of the downtown thing and everything went out to Durango.

That was probably the plan. There was a little bit of a change when I left to go back to the general superior court. The architect had wanted to put all the court rooms in this one main building in the administration. I told him, "No. I want dependency totally separated from the delinquency side." We were going to use the existing juvenile probation office facilities, where the courtrooms were already, we would redesign that a little bit and that would continue to be used strictly for delinquency. There would be a smaller facility built which would be the judge's offices and so forth and then there would be some hearing rooms for the dependency matters. We'd also have adoptions there. That was another thing that kept juvenile court judges smiling is that we had adoptions. Tuesday morning why you couldn't wipe the smile off the juvenile court judge for

anything there because that was the morning where everybody had their little babies that they'd gotten and they were so happy and the judge was too.

Holohan: Do you think the change in adoption laws has been good, since that time. Then they had private adoptions but they didn't go through the welfare authorities, did they, in the sixties?

Holohan: Yes. I think the changes were improved. I fought to try and have no private, no total private placement.

Silverman: It was kind of becoming a baby-buying state?

Holohan: Well, those accusations were made. I didn't really find that though. I had looked into it. The amounts that were paid were used to pay for the girl's lying-in expenses and the obstetrician and then there was the legal fee. There were several lawyers that charged very modest fees for that. A couple of them were adoptive parents and in effect that was sort of their pro bono work was to help other people. Because apparently they'd had to wait a period of time and things like that and they knew what you went through. And the county attorney would handle it in those years without fee. But these fellows figured that you had a little more personal attention when you had your own private attorney so they charged a very modest amount.

[Frederick K.] Steiner [Jr.] out at the Snell and Wilmer firm did a lot of that work and he never charged anywhere close, even remotely close to what that firm would charge for his services in the regular commercial practice. But he did that because he was very strong for believing in the adoptions and he believed in private placement too.

The first things we managed to do was to get the so-called sort of preliminary, that if a child was privately placed, if the parents that they're placed with were not certified as suitable they had a very short period of time within which to do that. I thought that no child should be placed until the parents had first been certified as adoptable. I think that's the way the law is now. I haven't looked at it for a long time. But originally they wouldn't buy that. It was too drastic a change. But they did introduce the idea of the certificate of eligibility as it were.

I think those are good things, is first make sure that the parent or parents that the child is being placed with is suitable there to rear a child, then place the child. Not back into it.

Silverman: So then you went to which calendar, in 1971?

Criminal? Civil?

Holohan: I went to the--by that time, even before I went to juvenile, another one of the troubles I got into, I was a strong advocate for individual calendar. When Judge Stanford had been rotated off of presiding judge and Judge McFate was put on as the presiding judge, we had an experiment going on which Judge Stanford had allowed. There were four or five of us that were handling individual calendars. That is we were parcelled out domestic relations, civil, criminal and so forth and in effect they handed you a stack of them and said, Congratulations. Okay, there's your calendar. Then the judge had to schedule and put things like that and arrange them and hear them. It was excellent training as it turned out, for the juvenile assignment, because by the time that I hit juvenile I was used to doing that kind of stuff. But McFate wanted to end that because he wanted to go back to master calendar. He was another juvenile court judge that didn't like administration. I guess they liked the title. I could never see that. He wanted it to go back to the assignment system. So I let it be known in no uncertain terms that I thought the assignment system, even as it was envisioned, was not going to work, it was still a disaster and that the individual calendar has proven

itself. We were handling more cases and getting them out than the entire civil assignment system was handling. Because among other things, they wouldn't identify what cases were being settled.

If you've got a judge that's been around any time at all and knows your Bar you can go through the slips of cases and you can start piling them up: those you had settling people and the same thing in criminal cases, you had lawyers that seemed to generate more than their share of pleas and so on. So you could go through your calendar and actually identify those things.

So when you were setting, we would set kind of heavy anyway, you wouldn't set just one case a day, but you knew in some of the cases that you were setting there, this is going to be a plea, these generally settle, and if you ran across some that these are tough nuts, then when you put that one down you said, "I'm going to have a trial."

But judges who don't want to fool with administration, why they don't want to do that. They want some clerk, I guess, to do that and the clerk doesn't know it, at least to handle a volume like that.

So Judge McFate's tenure was rather short as presiding judge because the Supreme Court heard about all the

trouble so they had him come out and they asked him, "Well, you're talking about assignment and you don't like the individual calendar. What is your assignment system? How do you look for it to work?" So he outlined to them. They said, "How many cases do you expect to set?" He told them. They said, "Well, you know, of course, that if you set that many cases, form looking at your statistics you'll be two years behind at the end of the year." "Well," he said, "we'll just have to have more help and more judges." They said, "Okay. Thank you." Within the week he had been replaced by Judge [Fred J.] Hyder, who is an individual calendar enthusiast.

The court was kind of abrupt in the way they handled it. They also came down with special rules for Maricopa County that in effect put all judges on the individual calendar with the exception of presiding judge and probate. They allowed probate assignment to be a specialty. Of course probate was also assigned mental health and some other things.

Silverman: Guardianships.

Holohan: So when I went back in 1971 why everybody was still on the individual calendar. Now that meant that you handled domestic relations, civil, criminal, special proceedings, whatever was on the list. So you handled

your calendar in that fashion. Sometime afterwards, why they went into more specialties, into criminal and into domestic relations and domestic relations fell farther behind than it ever had. So I don't know. But I don't have to worry about those things anymore. So in 1971 I was back on the general calendar and I received word in 1972 that Justice Jesse Udall was thinking of retiring. Mrs. Udall was very ill and Jesse was a very tender and loving husband and I guess he realized that she didn't have just an awful lot of time and she required a lot more attention and care. And while he enjoyed his work on the court, enjoyed it very much and worked very hard at it, he made the decision that he was going to retire. So I applied for the job.

Tape 5, Side 2

Holohan: . . . job consisted of getting friends and neighbors and so forth to write to the governor and tell him what a wonderful person you were and what a great justice you'd make on the Supreme Court. One of my best stalwarts was the great old judge Ross [F.] Jones. He got very enthusiastic about that and he suggested various people to go and talk to and

wrote a letter or two of his own.

There was a couple of legislators that I asked to be of help. Doug [Douglas S.] Holsclaw, who was a state senator and I'd worked with on juvenile matters over the years, was helpful. Oh, and various other ones around the state. Jack [John R.] Williams was then the governor.

So it came to pass, as they say. I guess that was another December news day, I got advised in December that--it might have been early January because Jesse retired something like the fifteenth of January or somewhere in there and then I think I was sworn in somewhere around the seventeenth if I'm not mistaken.

So I'm a little vague on just exactly when the governor did advise me that he'd made the selection and then he made the announcement. Then we had a nice breakfast together and in effect he said well this is probably the only time we would be meeting again talking about those issues because he was a firm believer in the tri-department system of government and in the independence of the judiciary and wished me well. Came to the swearing in and that's about it. Both he and Paul Fannin, neither of those people can I ever remember of any judge ever having said that they called to ask for anything. They just totally left

their judges to do their job. They were both great believers in the independence of the judiciary.

Silverman: You have a great memory. The paper says you were sworn in January seventeenth. Maybe that's what you set, January seventeenth.

Holohan: Yes, that began then the career. I was the new boy on the block, I held the door open for the others when they went out on the bench. They were very kind. I had, of course my very good friend Jack Hays was on the court and that year he was the chief justice. The great Lorna Lockwood was still on the court. Fred [L.] Struckmeyer was of course the senior justice and [James] Duke Cameron was the next, he was junior, he'd been the junior until I came on the bench. The age of the court dropped dramatically. Jesse had been well up into his seventies and when Duke came on the court why I guess Ernie [Ernest W.] McFarland was seventy-something-or-another. So when those two were off the court, why the average age went way down.

Then began the service on the Supreme Court. We were still in the old Supreme Court chambers, which was part of the main part of the court. The tower and the west wing were added, oh, roughly 1974 or thereabouts.

It was a brand new experience. I had never served on an appellate court. I was called up probably on two

occasions that I can remember to sit with the Supreme Court.

I had to smile, my good friend Ross Jones told me the first time I was to be called up, he said, "Well Bill, here's the way it's going to be. You go up there and after you will have received the material from the clerk and read that and you go up to hear the oral argument, and after the oral argument they'll go back in the chief justice's chambers and they'll talk a little bit about the case. Then the chief justice will say to you, 'Bill, this has been an interesting case, hasn't it?' You, of course, will reply in the affirmative. And he said, 'Why don't you write it?'"

Well, it was almost scripted as Ross Jones had. I had to bite my lip to keep from laughing when Charlie [Charles C.] Bernstein said, "Well, Bill, this has been an interesting case," because I knew what was happening. So, sure enough, I got to write the opinion on that one.

The other case that I went out to sit on, I didn't have to write the opinion. That was one of the Harbor estate cases and Lorna Lockwood wrote the opinion on that one. It was an interesting one and I didn't have to work that hard.

Jusem: You were called while you were on the superior court?

Holohan: Yes. Under the Arizona Constitution, and it's a good system, there can be a free flow of judicial power through any of the levels of the court. That is, that the Supreme Court can call any judge of record, that is superior and later the court of appeals, to serve on any other court. So the Supreme Court can call a judge of the superior court to sit in the court of appeals or to sit in the Supreme Court. They can call a judge of the court of appeals to sit in the Supreme Court. They can also tell him to go down and sit in the trial court, in the superior court.

So this flexibility has been at times a life saver for like the court of appeals when they had a judge like Larry [Laurance T.] Wren that was ill for a period of time. When it was finally determined that he wasn't going to come back, then he retired, but while he was sick and out they had to have somebody to take the place. So they had, some superior court judges came up to help out.

Then the constitution, very wise in another section that provides that retired judges can be called back to sit on any level of the court. So Judge McFate, who retired some years ago, was called back to sit. He sat with the court of appeals and did that for several months and did quite a good judge. He's a

lousy administrator but he was a good judge. Did a real credible job during the period of time when he sat as an appellate judge, because he was kind of a scholarly guy and that this thoughtful business and he, slow, but his thoughtful approach there, why that was right up his alley. So he did really a good job.

But the constitution provided that resource for the judges to use.

It was spelled out very clearly in the 1960 constitutional amendment, the so-called modern courts amendment and that laid it out very clearly. They didn't have to construe anything there. Although prior to that time they had used that system of calling superior court judges. We had no court of appeals until, actually the first group was 1965, created in 1964. They were elected in 1964 and took the bench in 1965. But up to that time the only place you could drag would be from the superior court. So that's how they didn't call up. Nowadays the tendency is, it's rare that a trial judge is called up.

Usually it's an appellate court judge is called up to sit and take the place of a justice of the Supreme Court that is disqualified or sick or whatever reason they need a fifth person up there.

Silverman: So then you had to face the election in the fall of

1972?

Holohan: That's right.

Silverman: How did that go?

Holohan: That was a, talk about being green. Here was a statewide election. I was going about doing my job and various lawyers that knew more about that than I did and a couple of politicians said, "You better get out and start beating the sticks here and start setting up a campaign committee and all that." So I made some kind of an attempt at that.

Silverman: Did you actually have people run against you at the state level?

Holohan: Oh, yes. Howard [V.] Peterson ran and he was a veteran . . .

Silverman: He was a superior court judge?

Holohan: At that time, yes. Howard Peterson had originally run for congress, the United States Senate, and in 1966 I believe it was, he ran for superior court judge. Almost every two years he was running for something. So in 1966 he ran for superior court judge and anything that stood still had a Peterson sign on it. He was elected. He spent more, we thought that was terrible, he spent twelve thousand dollars on that campaign. Well, that was a lot. My 1964 campaign, I think we spent thirty-five hundred dollars and thought

that was enormous. He spent twelve thousand two years later.

In 1968 he ran for the Supreme Court. So he held the trial judge job two years and ran for the Supreme Court. You didn't have to resign where you ran for another judicial office. So he ran for the Supreme Court in 1968 and was defeated in the primary by Charlie Bernstein.

In 1970 he ran for the superior court again. Although he didn't have any opposition he treated it as if he did. Real campaigns.

So here comes 1972 and people told me, "Well, you might as well figure that Peterson is going to run against you so you might as well get out there." So, that was true. So I went through the statewide campaign bit and this is a big state. Oh, gosh, trying to cover all these areas, Flagstaff and Prescott and Kingman and Yuma and I don't know how many. . . . There was one day that I think I went to Tucson something like three times. There were some things that I had that I couldn't get out of or that were spaced, it might have been only twice. I went down for a breakfast, had to be back for something in Phoenix--that's right, it was only twice--and then I had to have something in Tucson that evening.

I put a lot of miles on the car that year. Flying wasn't all that cheap and then we didn't have quite all that much money to be doing it. The big luxury is that I had some things set up in Yuma and the campaign finance chairman says, "Fly. We've got money." So I got to fly down to Yuma. Of course that's a long trip down and a long trip back. And shoop, you're down there in forty minutes or something like that with the airplane and you get in there and you're rested and you go on and do your thing. Took a late evening flight out and still get a chance to get a good night's sleep. Oh, that was luxury. I was so tired, that trip to Tucson I think I was waving at some of the lizards there that they've got. We were on a first-name basis there. But it was a rare experience and the . . .

Silverman: You defeated Judge Peterson, I take it.

Holohan: Yes. And probably . . .

Silverman: Was he a Democrat?

Holohan: Oh, yes.

Silverman: He's still on the superior court bench, isn't he?
Howard Peterson?

Holohan: He retired.

Silverman: Was that Cecil Patterson? I get those names mixed up.

Holohan: He retired on there. He ran this last time and then

he qualified for the raise and then retired.

The thing that made the big difference . . .

Silverman: He was the one judge that always ranked about sixty-five on the lawyer's poll, isn't that correct?

Holohan: Yes.

Silverman: That's how I remembered he was the one that didn't go through the merit selection committee.

Holohan: Yes, that's right.

Silverman: When did you get involved with the merit selection of judges?

Holohan: In 1974 the merit selection initiative was on the ballot and there was quite a push by the Bar and members of the judiciary and some citizens to get judges out of the election process. So it was . . .

Silverman: Didn't you have something to do with that? Were you on a committee or something?

Holohan: Well, yes. I don't think I was really on a committee but I spoke a lot in favor of it.

Silverman: So that was like a citizen's referendum? There was a vote on it?

Holohan: Oh, yes. The legislature would never pass it. They wouldn't even put a referendum on.

Silverman: So how did it get on the ballot? Was there a group of people that pushed it?

Holohan: Yes. The Bar was probably the major group, but the

League of Women Voters was very strong for it and they had a citizens group, Sturdevan out of Yuma and Rosensweig here in Phoenix and they had some people, oh, Sam Mardian was active in the campaign, too. They put a group together that just didn't think that the judges should be elected. They liked the so-called Missouri Plan. So that had a lot of good support and then the Bar was very active, very strong in it. While there was a very . . .

Silverman: Now was, Judge [Philip W.] Marquardt, was he an elected judge or was he appointed?

Holohan: He was first appointed. He was first appointed by Jack Williams.

Silverman: I thought there were still a few judges that were recently on the board that were elected.

Holohan: Oh, yes, yes.

Silverman: There are not too many elected judges left, are there?

Holohan: No, there aren't.

Silverman: Marilyn [A.] Riddel, is she an elected judge?

Holohan: She's elected. Yes. Let's see, most of them have retired now. Irwin Cantor was one. You kind of raise the question, but the most prominent judges were those that had come through the election process.

Bob [Robert C.] Broomfield, one of the authorities on court administration in the United States, now a

federal judge, came through the appointment and election process.

Don [Donald F.] Froeb, who was retired from the [Arizona] court of appeals a while back, the same thing. First appointment, then election, but a contested election. And he had opposition in the superior court the first time he ran.

Roger [G.] Strand came through that system. And then some of the earlier federal judges there, Chuck Hardy, he came through the system.

Silverman: Yes. And Thomas Tang.

Holohan: Thomas Tang, yes, he went through all kinds of fire, because he was defeated, let's see, in 1970, the 1970 election. In 1970 or 1971? I guess it was 1970.

Silverman: [I.] Sylvan Brown, wasn't he. . . .

Holohan: No, he was one of the early merit selections. There's where we found out, how can you recall a merit selection judge?

Silverman: Yes. How can the judge in the merit selection process be defeated now? Just by the no voted of the citizens?

Holohan: That's it. Because, while the constitutional provision says that the merit selection process is not exclusive or is supplementary to the impeachment and recall provision, there is no process for recall

because recall, the way it's set up, it envisions a candidate and partisan. So to that extent, if we make a mistake or if the commission makes a mistake or if there's a change later on after a judge has been retained once, there's no way to get rid of him or her short of impeachment.

Silverman: Well now, in the case of Judge Marquardt who resigned because of his drug problems, would there have been any way for the Supreme Court to get rid of him? Or is the no vote of the people it? That's it?

Holohan: The Supreme Court weaseled on there. They had an opportunity to dump him but didn't.

Silverman: In the first instance a couple of years ago?

Holohan: In first instance, because sometime . . .

Silverman: They censured him, I believe.

Holohan: Yes. Sometime along the line we came in with the idea of the Judicial Discipline Commission. Article 6.1, which provides that a judge can be removed from office for misconduct and there are several grounds that are set forth or they can even be forced to retire. The commission, which is composed of Supreme Court appointments, governor appointments and Bar appointment, holds hearings on a matter and makes a recommendation to the Supreme Court. Then the Supreme Court must decide. So the commission is really a

hearing body with advisory or recommending powers. In the case of Marquardt they heard the matter and they recommended that he be removed from office. I left the court about the time that we had taken one step in that, like sending back for some sort of a hearing. I was off the court when the final decision was made.

There were some problems that, removal for having commission of a felony. There was, the offense of possession, under Arizona statutes, would actually be what they call a class six felony, which is one that can be designated either as, it's a class six offense, it can be designated either as a felony or as a misdemeanor. But until the judge designates it it's considered a felony. But either at the time of sentence or after a probationary period, the judge can designate it a misdemeanor.

So the counsel for Marquardt was trying to maintain that the judge hadn't committed a felony so he couldn't be just automatically removed on there and that therefore with his background and all why he shouldn't be removed. It should be treated as a misdemeanor and that he should be censured and allowed to continue. Apparently that's the tack the Supreme Court took.

Silverman: Well do you think the election process might allow the citizens to get rid of the bad eggs faster than the judicial commission?

Holohan: You bet. Oh yes, you bet. And you can be not really guilty of any misconduct, which the commission would have jurisdiction over, but you're just a poor judge or you're totally out of step with what the community standards are or you're. . . . The community used to be able to throw you out if they felt that you were not conscious of public safety. There was at least that little escape valve that they could either use it by recall or you had somebody that ran against you and you had to get out and defend your position. And then the folks decided.

Silverman: Having to do it over again, would you probably be in favor of something that had a little more accountability to the general public?

Holohan: Yes. I'm not satisfied at all with what I took part in. The merit selection process is weak so far as I'm concerned. But I haven't really come up with a good answer. You alluded earlier to the small battalion of judges that we have down in the court house. How do we deal with thirty people or twenty-eight coming up on a ballot.

Silverman: And why should they have to run continually when

they're good judges?

Holohan: Yes. And then even expecting the public to know something about those twenty-six or thirty. It may come down to the idea that some citizens groups are just going to have to take a more active part in the so-called merit selection process. There are dangers in that because you can have groups that have extreme views. You could have the extreme law and order group and that . . .

Silverman: And the ICLU.

Holohan: You have a judge, then, subjected to a real aggressive campaign and that, as one of the judges speaking in favor of merit selection said, "If it were the old system, I would never have been selected and I would never have wanted to be selected because I'm just not into that sort of thing." Well if that judge were the target of something like that, he or she had better get somebody to help them counter that. I don't really have that confidence in the [news] media to be all that fair and good and great on it. Interestingly enough, the folks have a way of telling even the media to go stick their head in the bucket. In the victim's bill of rights all the prominent people, lead by the chief justice, and the newspaper and all were against that. They found out that the

people had a different viewpoint.

I think, kind of off the subject a minute, but back to it, the newspaper today is out of step with its people. Mister [Eugene] Pulliam was much more attuned to what was going on, but then that may be the idea that the paper is probably run by a committee, and with all its difficulties and you bring in somebody from out of state and they're supposed to become part of the community. All they do is become part of the people that go to the parties at the Biltmore and they have absolutely no contact with the folks. Old Man Pulliam knew though. He was also a tough one when it came to campaigns. There are a few politicians that have survived the old man's opposition, but there aren't very many. Actually the 1972 election was decided, in the Supreme Court, was decided by his efforts.

Silverman: Pulliam's?

Holohan: Oh, sure. The polls showed that something like eighty-some per cent of the people didn't know, didn't have a clue about the Supreme Court and that included my colleague Fred Struckmeyer who had been on the court, at that time, twenty-some years.

Hal [Harold] Riddel, the husband of Marilyn Riddel, was running for the Supreme Court. Well Hal had as

much business about being on the Supreme Court as, well he wouldn't have made a very good judge. He had absolutely no qualifications to recommend him, but he wanted to be a--and that's always nice to start out at the top. He was running for the Supreme Court and the Republican Party was supporting him. They support Republican candidates and he was a candidate.

Whenever I would make a speech I'd be talking about what a great court we had. Just inferentially that was in favor of my colleague Struckmeyer. I did absolutely nothing to help Hal Riddel's campaign.

Apparently Mister Pulliam got very concerned about the lack of information about the Supreme Court. He certainly didn't want Peterson and he had no reason to want Hal Riddel, so he told his people, "Get that news out about that." So shortly, well several weeks before the general election, he came out, the paper came out with the favorable articles of endorsements from prominent lawyers and citizens and stuff like that. You can't buy that kind of publicity.

So that's the other side. That's the danger, is that where the media can have that much influence. And it certainly did.

Down in Tucson, the media, the Citizen endorsed me and all that kind of stuff. The Star endorsed Peterson.

Of course they tended to be Democratic and they endorsed Struckmeyer too.

Silverman: Lorna Lockwood was running in that election too, according to the paper.

Holohan: That's right, she was. But she ran without opposition. She ran the best way there was.

Silverman: Okay.

Holohan: Yes, that's right. That was her last time. I'd forgotten about that. She just . . .

Silverman: How did she happen to run without opposition? Were you from districts or something?

Holohan: No. We ran statewide and you had to have an opponent.

Silverman: For your position? Because she was already on there?

Holohan: Yes. They called it term one, term two and term three, I think is what it was.

Silverman: I see. So when Howard Peterson ran he ran for a position that you were in?

Holohan: Yes. They had the specific designation. That had come about from some time in the forties. It used to be that when you ran for superior court judge, why if there were four spots open, why the top four vote getters were the superior court judges. A good judge got defeated in one of those because of the kind of the grab bag thing and people got to thinking about that and said, Well, I like these other people and I

sure didn't want to see Judge So-and-So off the bench though. But when you vote for the top four get it and then you've got eight running, why that can happen. So the solution was, hey, let's cut that out. If you want to run for judge then designate the division in the superior court that you want to run for or the term in the Supreme Court. So that's the way that came about.

Silverman: How many judges were on the Supreme Court in 1972?

Holohan: Five. The same as now. The court's numbers were increased somewhere back in, oh, 1948 I think it was, right around in that time, 1948 or 1950, and they've had the same number as five since then. The court of appeals, of course, adds panels and they can only sit as a panel of three. But they have a lot of panels. Some you, it's kind of the luck of the draw which one you get sent to. Then a petition for review can be taken from a decision the court of appeals up to the Arizona Supreme Court. And while the Arizona Supreme Court can sit as a panel of three, and did on a lot of occasions, they pretty well have stopped that since the court of appeals now has so many panels. So what they're doing is just trying to review decisions that have come from the court of appeals, death penalty cases and a few special actions involving items of

considerable public interest.

Silverman: In 1972, weren't there some spectacular things going on in Arizona then? How about Randy Greenawalt, was he back in the seventies, and Don Boles or is that later on?

Holohan: Oh, that's much later.

Silverman: Much later?

Holohan: Yes.

Silverman: Was there anything exciting going on in Arizona in 1972?

Holohan: Let's see. Jack Williams was governor. We were building a lot of state buildings, or starting to do that, expand. The economy was pretty good.

Silverman: How about Lincoln Thrift? When was that?

Holohan: That was later too. 1972 was [Richard M.] Nixon's second campaign and Watergate and all kinds of things were happening in that year, and poor old [George S.] McGovern was running for president.

Silverman: So in 1972 who was elected? Lockwood, Struckmeyer, Hays, Holohan and. . . .

Holohan: There were just, there were three of us up there. I ran for the unexpired term of Jess and that's how I was up. Then Struckmeyer was running for a full term and so was Lorna.

Silverman: I'm missing someone. Who were the five judges?

Holohan: Well, there was Cameron, Hays . . .

Silverman: Oh, Cameron.

Holohan: . . . Lockwood, Struckmeyer and Holohan. It just happened that three of us were up that year. Normally it would have been staggered in such a way that there would have been two. It's two, one, two is usually the way it had run in the past.

Silverman: Was the Supreme Court in the top of the legislature building where it is now?

Holohan: No. The Supreme Court in 1972 was in the old Capitol Building, the one that is in front of the tower. It was on the second floor.

Silverman: Did you each have your own law clerk or clerks? Did you have more than one?

Holohan: Yes, each one of us had one law clerk.

Silverman: What about secretaries?

Holohan: One secretary, each of us had our own secretary.

Silverman: And that was it?

Holohan: And then we had one, the court had one research analyst.

Silverman: And bailiffs?

Holohan: No. We don't have bailiffs.

Silverman: For oral arguments you don't have any stenographers?

Holohan: No. A clerk would come in at the time of oral argument, because they record them, and the clerk

would come in and see that the recording machine was on.

Silverman: They tape record them?

Holohan: Yes. That's been the custom for quite a long time. It was helpful if you want to go back and review anything in an argument. Also if a justice is going to participate in the case, in the decision on the case but was not able to be present for oral argument, the tape is available for oral argument.

Silverman: Did you find that this was kind of a quiet job after being on the superior court?

Holohan: Oh, yes. That was, the most striking difference is that the pace was entirely different and it was a very quiet type of job. You didn't have all kinds of personnel coming in and you didn't have the lawyers popping in and of course you didn't have juries. It was pretty much an office type of job and the exposure to public and attorneys was generally limited to the occasions when we'd have oral argument and more often than not there was very little public that was present for the oral arguments. There were just the lawyers and the number of lawyers was drastically reduced. You tended to have a more limited number of the Bar that went to the Supreme Court. Most lawyers didn't get their cases up there.

Silverman: I think this might be a good place for a break.