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Professor Myres S. McDougal

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New Haven, Connecticut
Interviewed by Judge R. St. J. Macdonald
on Monday November 11, 1996

Macdonald: What was it like growing up in rural Mississippi in the early part of the twentieth century?

McDougal: Well it was very exciting. The social situation was ~~very~~ different then. The black people didn't even have a vote much less run the state. My father was a country doctor, he practiced in Booneville for some forty years. I drove the car for him; I didn't even have to have a licence to drive the car. People were very friendly. Race relations were much better than many people would assume. Our home was on the street that ended near where the black community began and some of my earliest playmates were black playmates and we got along fine together; we didn't have any problems. ~~I never have had any problems with blacks.~~

→ Mississippi was a ~~very~~ fine place to grow up in; the hunting was good, the fishing was good, and life ~~I think~~ in general was good, and I think it was good even for the blacks. Nobody ever went hungry or anything of that kind at least that I knew anything about and I think that I did know.

Macdonald: What did you do for amusement?

McDougal: Well there were games. Baseball was the big sport in those days and everybody played baseball or watched baseball. We also had football and basketball. I was much better in football and basketball than I was in baseball. We had the same amusements that I suppose people had in most of the country. There was a lot of hunting and fishing. I was born in a little community called Burton which is right on the banks of this new military cut

from the Tennessee river to Mobile and the McDougals for seven generations were on the east side of that cut ^{which} ~~and what~~ is now ~~the cut is~~ called Merit creek.

Macdonald: What were your schooldays like before you went off to the University of Mississippi?

McDougal: ~~Well~~ ^A as I said I was born in this little town of Burton. My father was a successful doctor but he changed homes often. He would buy one house and then when he made a little more money he would buy another house and this was in the town of Booneville about fifteen miles east of Burton. ~~But~~ Booneville was really my home, I grew up in Booneville and went to high school and through all grades there. I had one sweetheart the whole time and unhappily in my senior year she ran off with the son of a new Methodist minister but they never got married ~~and she died an old maid~~. I saw her in Memphis just a couple of years ago before she died and I told her she had made a great mistake and she said she understood it.

Macdonald: Were there any female students or mature students at Ole Miss in those days?

McDougal: Young ladies were about a third of the student body and they were much sought after of course and I had good luck again. My mother's youngest brother lived in Oxford and one of the things he owned was a flower shop and I always had plenty of flowers. I had free flowers for all my girlfriends, which made it very nice. We had a great life at Ole Miss. There were many events on almost every weekend. We didn't have fraternities then ~~3~~ We weren't supposed to have them but we had them sub rosa. Ole Miss was a wonderful place to be. I discovered there that I could be pretty good.

Macdonald: Were there any major disappointments in your career? Positions or

achievements or honours or titles that you would have liked but didn't come your way? You have had a charmed life and I've often wondered if there was anything you would like to have done but didn't get done or something you cherished but didn't come your way.

McDougal: Oh yes. I tried to go to the International Court of Justice. I tried for the International Court at least three times and was always beaten by a Harvard man. The Harvard people had a better Mafia than the Yale people had. I ~~ve~~^{have} got four former students on the court right now but I never could make one of the fifteen myself. That's been the principle disappointment of my life.

Macdonald: A big disappointment?

McDougal: It was a big disappointment. I wanted it very badly. You see, my father wanted it and I wanted to be able to take it home and show it to him while he was still living.

Macdonald: Here is a touchy question but I think I ~~should~~^{must} put it to you nevertheless. People say ~~you were economical with the truth~~^{that throughout your career} when it came to commenting ~~on the policies of~~^{critically} the State Department. I'm sure you've heard that before.

McDougal: Well I worked full-time in the State Department for at least two years and I worked for them since of course. I represented our government in the Nicaragua Case and I was very proud to be able to do it. I think our government has stood for the better things in life. Most of it ... [end of side 1] [side 2] I have had a very close association with the State Department through the years and I'm very proud of it.

Macdonald: What are some of the things you would like to see done over the next fifty years in the field of international law?

McDougal: Well that's a hard one. I suppose they will have the stuff rationalized a

United Nations

good deal more than it is. But you will have to take it problem by problem and go into great detail on each problem. This would require two or three volumes on international law. If I were younger, I would try it. As a matter of fact I am trying it in some measure now. Michael Reisman and Andrew Willard and I are working on a book on the world process of effective power, which includes the new ~~U.N.~~ and we are making recommendations as to how the whole thing should be reformed. That would be the sort of thing I would give more energy to if I had more energy. But Michael and Andy are both very good and I know they will finish the work even if I ~~am~~ not around to help them ~~but~~ I don't expect to disappear any time soon.

Macdonald: How do you see yourself? ~~Many~~ ^P people say you are a born teacher who happened to be a lawyer.

McDougal: Well that ~~can~~ ^{might} be true. The oldest picture I have of myself is me standing above a step of our home in Burnsville, Mississippi, and I ~~was~~ ^{am} holding a switch above the heads of two little cousins. My mother's handwriting on the back of the card says, "Teaching School". So I was teaching school at the age of three.

Macdonald: That's nice. What do you regard as the highlight of your professional career?

McDougal: I don't know. I've enjoyed the whole thing. As I've said, I ~~haven't had too~~ ^{have not had} many disappointments. The only thing I would have liked to have had would have been to go to the World Court but I knew in a sense that I wasn't going to get that. The Harvard people were going to beat me every time I stuck my head up.

I enjoyed working for the Lend-Lease Administration. Harry Hopkins was the hatchet man for Franklin Roosevelt. The hatchet man for Harry Hopkins was a man named Oscar Cox,

who was the general counsel of Lend-Lease, Assistant Attorney-General for world affairs, and he held four different titles. I had two offices in Washington during World War II, one in the Lend-Lease Administration over on 22nd Street, and one in the Department of Justice, just across the street from the Assistant Solicitor-General, who was then called the Constitutional Officer of the Department of Justice. We had Milligan's Case: the eight saboteurs burying their clothes in the sands and then coming across the lines, getting as far as Chicago. I was down in Mississippi on a brief rest when this happened and I got a call from Cox to be back in town *on Sunday*. I had the Milligan case before the Supreme Court by Wednesday. I guess the high point of my career was really the argument in that case. We got the complete involvement of the spring court. I enjoyed that as much as anything I've done.

Macdonald: You often said that you were "geared for combat" and at your best *when you were* "on attack". Do you still see yourself that way?

McDougal: Sure. You see, that was the role I played for Oscar Cox. He was on the attack for the Attorney General, Biddle, and I was one of his attacking forces. I helped him prepare the attacks. I remember preparing an opinion that we could put soldiers on icebergs. That was one of the first things I did for the Lend-Lease Administration. That established the lawfulness of army icebergs. I enjoyed the work at Lend-Lease more than anything I've ever done. *I am* I'm an activist, I don't know why. *but I am.* I'm not a very good teacher. I like to argue.

Macdonald: Oh but you were an inspiring teacher. What changes have you seen at Yale over the years?

McDougal: Well it was a very radical place when I arrived there. American legal realism was just beginning at Yale and Columbia. The two of them were the principle

That is universally recognized.

proponents. Llewelyn was at both places, Columbia and Yale, and he was one of the principle proponents of American legal realism. And Wesley Sturgess was the great teacher. Wesley Sturgess was a tremendous influence in my life. I had this very conservative education at Oxford, where I'd done very well and, as I said, this boy from Nebraska and I had got the highest marks there in six years.

Macdonald: But you were very happy at Yale through the years. Did you ever think of leaving Yale to go into practice or government work?

McDougal: No. I tried to get into Harvard law school from Oxford but although I had a double first at Oxford, they wouldn't give me any credit whatsoever at Harvard. ~~But~~ Yale told me they would give me credit towards a doctorate's degree. I am now one of the last people to have got a doctor's degree at Yale in one year. At that time you could get a doctor's degree at Yale in one year. They abolished that at the end of that year so I couldn't have done it again.

Macdonald: And that is when you met Sturgess. ~~is that correct?~~

McDougal: Yes. That's when I got to know Sturgess and I thought that Sturgess was crazy. He would run it both ways, you see. He would take the ~~???~~ and make me take a position and then make a fool out of me before the whole class. He was good at that. Sturgess was, I think, the best teacher I've ever known. I was lying in the dormitory over there—we lived in dormitories there and they were constructing the Yale graduate school at that time and they made an awful racket in the early morning—and I woke up about six o'clock one morning and suddenly the thought hit me, why the son of a bitch is right, this was Sturgess. He called on me that morning and he couldn't believe his ears. But from then on we became close personal friends and he told me he would get me a job at Illinois, which was a Yale school at

the case we were assigned

that time. This was in the middle of the Depression and my family needed money so I did go to Illinois for three years and loved it there, in fact transferred my citizenship from Mississippi to Illinois. And you can understand that that is a pretty hard thing for a Mississippian to do.

But I loved Illinois and was associate dean there and I really didn't want to come back to Yale but Francis, my wife...

Macdonald: Your working relationship with Lasswell is unprecedented in modern scholarship, not just legal scholarship, but scholarship generally. You complimented one another. ~~It was an extraordinary relationship.~~

McDougal: Well I expected that, you see. When I first met him there at Chicago he didn't seem to me to be at all strange and my wife would entertain in those days. I gave a big dinner and invited both Lasswell and the faculty. Of course in fifteen minutes I saw who was crazy. Lasswell was just running circles around them and they didn't know what was happening to them. But I understood him and I told him if he came to New York to come on up to Yale and we'd make some connection for him and he turned out not to be a success, ~~So what a~~ ^{which was} surprise. He was not successful in public relations and he called me up one day and said he'd like to come up and talk with me. I told him to come on and by that time I was a power at Yale and at the end of the war we had only seven members of the faculty. I got him elected and along the way I compromised; I would vote for Emerson and the rest of them would vote for Lasswell so we got him on the faculty. Again it was lucky, you see; the faculty had got so small that I could control it and so it worked out very well for him and for me.

Macdonald: And the relationship was an extraordinary one, ~~wasn't it?~~ ^{I understand.}

McDougal: We never talked personal things, it was always business, ideas, and Lasswell

want to ~~the~~ tell you that

was wonderful on ideas. I made it clear to the students then and I make it clear now that the basic ideas and the law science and policy stuff all came from Lasswell. I didn't create them but I was able to understand them and use them. That was the contribution I thought I made to it, you see. And I ~~will say~~ Lasswell thanked me just before his death; he called me into his room and said he wanted to thank me for all I'd done for him and I told him I'd always thought the shoe was on the other foot. He said, "no, that I had done a great deal for him", and I suppose in a sense I did. I had made him get his feet on the ground and I rationalized his arguments in a way that he might not otherwise have done.

Macdonald: Well you've done so much for so many people for so many years, it's truly remarkable. Everybody recognizes it. You are revered and loved by your students and friends ~~all~~ around the world.

McDougal: You are kind to say that. For all I appreciate it.

Macdonald: The last time we were talking you identified some of the major figures in international law in the United States. You mentioned Hyde, Jessup, and Hudson. Would you include Quincy Wright, Edwin Dickenson, Hardy Dillard, Ernest Gross? Who are some of the other greats? And what about Woolsey, who was here at Yale at the end of the 19th century?

McDougal: He was president of Yale and he was one of the first teachers of international law in this country. I think I have a great tradition at Yale.

Macdonald: Yes, it would go from Woolsey almost to Borchar and then to you.

~~Macdonald~~ If you were starting over again, are there any things you would do differently? Would you go into academic work?

McDougal: I think I would. I have liked academic work. But I might have gone to

Wall Street. I had four offers from Wall Street when I finished at Yale.

Macdonald: But you were very happy at Yale weren't you? Wasn't it a ~~very~~ congenial place to be?

McDougal: I've been very happy at Yale. I have no regrets at all. In fact, I hold the record as the longest serving professor other than the man who was there for seventy years. I was there for forty-one years, one year longer than Arthur Corbin. But there was a man named Baldwin who was there for seventy years; however, he was also governor of Connecticut at the same time ~~that~~ he was dean of the Yale law school. It's the longest in history: Arthur Corbin was forty.

Macdonald: What were the ~~main~~ changes? You would have seen the university move from a smaller institution to a large internationally-recognized centre of excellence. There would have been huge changes wouldn't there?

McDougal: There were, but you see there weren't any great institutions anywhere in the United States in those days. Yale was no different from any other place—Yale and Columbia were just beginning to become great centres of legal education at that time. And Karl Llewelyn had much responsibility for this, as a matter of fact, he had responsibility all over the country. He had many students around the country who helped set up law schools and run them.

Macdonald: After Woolsey we jump directly to Borchard as far as international law goes?

McDougal: I think so. Borchard was powerful here for many years. We were personal friends. We used to play tennis together; there was a lawn club, and at that time I couldn't afford to be a member of the lawn club, and we played tennis there. He wrote this article on

the St. Lawrence Seaway, you must have heard of that, and I didn't think it was right in the law journal. He asked me to answer it, he was going to publish it, and he did publish it in the Yale Law Journal. I told him I would answer it if they would give me the pick of their competitors and I picked a man named Lanz and we wrote the longest article that has ever been published by the Yale Law Journal; it is two hundred and fifty pages on congressional executive agreements and to prove that they were the equivalent of a treaty. This St. Lawrence thing was perfectly lawful. And I think we did make our point because nobody has ever questioned since then that the St. Lawrence treaty was lawful.

Macdonald: What ~~is~~ ^{is} the story of your famous book on property, McDougal and Haber, and why ~~was~~ ^{was} it suppressed?

McDougal: Well, the final chapters were ~~all~~ ^{all} on land planning, community planning, and it was suppressed; in two states it was alleged that the ~~book~~ ^{book} violated the constitution; ~~it was~~ ^{it was} unlawful you see; it was crazy; it was banned in the state of Texas, the board down there quit teaching it. ~~I~~ ^{They} tried it in Washington state but the boy teaching it there said, "The hell with you, I'm going to teach what I want to." and they decided to let him alone, so he continued to teach it in Washington while it was banned in Texas. I had a lot of trouble with that book, people regard it as a radical book. I ~~introduced~~ ^{supplied} the notion of planning ~~in the United States~~ ^{in the United States}.

Macdonald: It's a wonderful book. I used it ~~myself~~ ^{myself} in Canada ~~a great deal~~.

McDougal: I am delighted to hear that. I thought it was a good book. I had ~~more~~ ^{more} fun with it. Haber and I did that. Haber didn't do too much work on it. He had been a very good student and I picked him out when he was a junior student to work with me but he turned out to be lazier than we thought and it was hard to get him to do his part of it and I got other

use
publication of the book was unlawful, but it

they

supplied

when I taught real property. The policies you advocated in the final →

students usually to work with me and find the cases and get the thing set up.

Macdonald: In addition to Hyde, Jessup, and Hudson, who have been the leading international lawyers in the United States in your time?

McDougal: Edwin Dickenson, of course, was a great man. Quincy Wright was Lasswell's teacher and Lasswell thought the world of him. I knew Quincy. He worked with us in Lend-Lease. He was very conservative as a lawyer and when we had a hard problem we would give it to him first and then answer him, you see. We used him as a dummy and he knew it; he suited the role, and I came to know him. We had offices next door to each other; he was a very able man, just very conservative as a lawyer, that was the only difficulty we had with him. Dickenson was wonderful. He wasn't conservative; he was a very able, creative man. I had great admiration for Dickenson. Gross was very good; he was legal advisor with the State Department at one time and a good one. Hardy Dillard was one of the ablest men I've known. He was better in contracts but he beat me out for the World Court. There are people who think that Hardy double-crossed me...

in other words,

Wright
→ than international law

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Wright