

# To the Top of the Ladder:

## *A Tribute to the Honorable John F. McCuskey*

*By Allen Mendenhall*

It is early morning. The temperature is cool. The air smells of football season. Along the highway, leaves seem to explode, like brilliant fireworks, into a flaming finale of kaleidoscopic reds, yellows, and oranges. It is hard to believe they are drying and dying—that in a matter of days, the trees will look like an army of skeletons.

J.B. McCuskey and I are driving south on I-79 to meet his father, the Honorable John F. McCuskey, for a round of golf. We whiz through morning fog, scattering grazing deer just off the highway's shoulder. J.B. is advising me: "Don't call him Judge, Your Honor, Honorable, Justice, or anything like that." As he speaks, one hand is on the lid of a blue Titleist visor; the other strokes the red beard he's accumulated since losing a bet on the Pittsburgh Steelers. His window's partially down. The frigid air whistles into the car.

"Okay," I submit, not sure what to expect of the Honorable John F. McCuskey. I envision a hefty, bearded man of the likes of William Wallace—although the McCuskey family hails from Ireland, not Scotland. When I finally meet John McCuskey, I see that he is not what I expect: he is short, scrappy, clean-shaven, and by no means anti-social. He smiles, offers a handshake, and ushers me to the first tee.

A wise philosopher (my father) once said, "You can tell a lot about a man by the way he acts on the golf course." On this Saturday in October, I learn that John McCuskey is nothing if not competitive. We agree to a skins game. At stake: a whopping fifty cents per hole.

By day's end, I'm fifty cents poorer.

McCuskey has devoted his life to raising a family, practicing law, and transforming the state's Republican Party. He is a hard worker who may

not know what weekends are for (anything but work). In the office nearly seven days a week, sometimes until midnight, McCuskey is, despite himself, one of the most agreeable men you'll meet (so long as you're not opposing counsel). An animated fellow, he utilizes every joint of his body to communicate. But don't let his gesticulations fool you: he is clairvoyant, having spent his life in the political arena, and he knows damn well what you're thinking at any given moment. This preternatural faculty is rather intimidating for the iniquitous or opposing counsel—not that McCuskey considers the two mutually exclusive.

McCuskey appreciates jokes. One morning, an employee sneaks a gift-wrapped teddy bear into his office. Innocent enough—save for the Michael Moore book cradled in the bear's arms. Taped to the book is a card: "To John, from your friends at the Democratic Party."

McCuskey, a Republican through-and-through, stomps around the office, feigning antipathy and

demanding to know the culprit. No one comes clean, but in a couple of hours, the bear is displayed prominently on his desk—a reminder that someone thought well enough of the boss to chance a prank.

One Sunday, John McCuskey and I decide on lunch at the Lakeview Resort in Morgantown, rain having spoiled our plans for golf. We sit on squeaky barstools, at a tall table with dirty ashtrays. Several televisions are tuned to the Bridgestone Invitational, the final tour event before the PGA Championship. Tiger Woods is monopolizing coverage.

"The McCuskey family migrated from Northern Ireland to West Virginia," McCuskey explains, sipping on tea while fielding my questions. "They

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arrived just after West Virginia disaffiliated from Virginia.”

He tells me about his childhood—about how his father died in a car accident, leaving his mother to raise him alone. “She balanced time between the home and her jobs as a school teacher and guidance counselor,” McCuskey remembers proudly.

He muses about growing up in Clarksburg: “I probably didn’t appreciate what an incredibly unique and good experience it was to grow up in a relatively small town. Clarksburg had so many European and eastern European immigrants, mainly because it was a coal mining area.

“It also had a big glass industry, so lots of people came there from the Alsace-Lorraine. It had lots of Italians and Greeks. It had three Catholic churches—I guess four—and Greek orthodox churches, too. It was well integrated. You didn’t have all the people who were white Anglo-Saxon Protestants from England in one part of town, although there was some separation between people.

But that separation was by choice. For instance, we had the Italian section. We even had areas that were associated with different provinces of Italy—like there might be a Sicilian area where almost everyone was from Sicily. We might have another area where everyone was from another Italian state. Then there might be an area where a lot of Greeks lived.

“One other thing about growing up in the late ‘50s and early ‘60s was that it was a wonderful time. I always have trouble separating how much I enjoyed my childhood from the fact that maybe my childhood happened during a unique time. It was before the Vietnam War. It was an idyllic era, sort of like in *Father Knows Best*—you know, an old family sitcom. There wasn’t a lot of tension. I believe that if I could go back and pick where I grew up, I’d pick Clarksburg, and I’d pick the ‘50s and ‘60s.”

I ask if McCuskey always knew he’d become a lawyer.

“I would say I was kind of rutterless,” he answers. “Not in a drifter way. I just had so many

things I liked. Both sides of my brain worked reasonably well because I enjoyed everything I did. After every new experience, I said, ‘Wow, I’d like to do that.’

“So, no, I wouldn’t say I knew I wanted to be a lawyer. My uncle was a lawyer, but my father was a physician, my mother a teacher. One grandfather was a minister. The other was a farmer. I always thought highly of my uncle. But I never really thought of practicing law. I thought of politics frequently, but I didn’t think of using law as a way to get into politics. Actually, I enjoyed scientific things. I built radios and all kinds of things with my hands. I did a lot of woodwork.

“I had a big tool kit, an adult kind. And when I was seven years old, I had a band saw. When my mother was around, I’d put my finger on it. She didn’t know it wouldn’t cut me. But I knew.

So, I shouted ‘look at this!’ and put my finger on the saw. My mother freaked. Today, I still have all my digits. I must’ve been somewhat careful.”

McCuskey and I

chitchat some more, com-

paring our meals (both good) and marveling at Tiger’s unparalleled skill (Tiger wins the tournament by the time our meal is done). At some point, I mention West Virginia by name, and McCuskey gushes: “I had job offers elsewhere, but I always wanted to stay in this state and make my life here. Many West Virginians who go away have that sense. Maybe some of us have a chip on our shoulder that West Virginia is looked down upon by the rest of the country.”

In 1969, McCuskey learned what it was like to be away from his beloved West Virginia; just out of college, he left to earn an additional degree from the University of Pennsylvania. “Then I came back to start law school and become a military officer,” he explains. “I was number 51 on the draft board.

“I was sort of looking at politics as a career, and certainly as a way to make a change. Timing is nine-tenths of politics. If an opportunity comes, you have to seize it. It doesn’t matter, necessarily, who’s the best candidate. It matters that you run at the right time.”

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"And law school was the right time?" I ask.

"Yes. Because West Virginia became more of a two-party system after Nixon's election in 1968. Arch Moore was running for Governor. *Moore's slogan was Arch Moore is marching through the state of West Virginia.*"

Nodding his head to the rhythm, McCuskey misses no beat, a crescent-moon smile forming as he enunciates the anapestic meter.

"Why not give it a shot?" McCuskey recalls thinking of his first run. "Even though nobody had been elected as a Republican to any office in Harrison County in over 35 years, I thought it was worth a try. I just decided one day. I don't even think I told my mom until after I announced."

Several law students took to McCuskey's campaign. They didn't care if McCuskey shared their ideas. They cared that someone in their class was running for office.

Harrison County had four delegates, and McCuskey decided to go door-to-door there, making his campaign as personal as he could. Applying his mathematical skills, he dissected the precinct into divisions and subdivisions, figuring out which were best for making inroads.

Every weekend that autumn, he and other law students campaigned in the areas McCuskey designated as most open for change. At election time, McCuskey didn't just win—he led the ticket. His opponents had been incumbents and Democrats. "They weren't happy that some new kid suddenly upset their apple cart," McCuskey laughs.

McCuskey served in the legislature for four terms. Then he got really ambitious and ran for Congress against Robert Mollohan. He lost. But he wouldn't give up. He ran twice more for the legislature and served two more terms (1978-1982).

About that time, Arch Moore was looking for someone for the Commissioner of Finance position. Impressed by McCuskey's gumption, Moore appointed McCuskey to the position. That put McCuskey in charge of the state's budget. "This

was," McCuskey claims, "one of the most fascinating jobs that anybody could have—more interesting than anything I'd done in law."

During his time as commissioner, McCuskey developed a close friendship with Moore, whom McCuskey still admires. Moore gave McCuskey a piece of advice McCuskey will never forget: "The first time you run for office, you get in because of who they think you are, but any time after that, it's going to be because of what you've done."

If you want to hear someone waxing poetic, ask McCuskey about Arch Moore: "History is a fabric with millions and millions of threads. The threads that are interesting are the ones that center on some person. It's usually a person who has great abilities and great flaws. How those two work together, and which prevails, is generally what makes the study of history interesting. I

assure you that I could read all the biographies I wanted, and I wouldn't find a more interesting, complex, and amazing person than Arch Moore."

McCuskey became one of Moore's top aids. Every state contract went through his office. Not surprisingly, then, Moore frequently sought out McCuskey for help. "I'd spend at least an hour with him every day," McCuskey recalls,

"watching him, getting inside his mind, seeing how he put the wheels together to accomplish something."

McCuskey points out that most people talk about what a good politician Moore was. According to McCuskey, however, that is only half the story: "Moore's brilliance as a politician was superseded by his brilliance as an administrator. If Arch Moore were president of the United States, he could work in the morning, go home for lunch, and relax the rest of the day. His administrative skills were that efficient."

After dutifully serving the Moore administration, McCuskey left public life and entered private practice. He practiced this way for ten years when an unexpected prospect slung him back into the limelight.

While supporting Cecil Underwood's cam-

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paigned for Governor, McCuskey had charmed other Underwood supporters—not to mention Underwood himself. Shortly thereafter, a Supreme Court vacancy opened up. Underwood tapped McCuskey to fill it.

The Supreme Court of Appeals of West Virginia—what a far cry from the solo practice in Bridgeport where McCuskey set up shop after law school (and where McCuskey carried out his duties as local delegate). Indeed, McCuskey had risen to the top of the judicial ladder.

Gone were the days when he handled whatever cases came in the door. Gone were the days when he lived upstairs, above his office. Gone were the days when his dog, Fang, a German Shepherd, worked as his receptionist. (That Fang is gone is particularly regrettable, since Fang's growling could divulge whether clients were guilty.)

It should have been no surprise that McCuskey would sit on the state's highest court. In the third grade, when McCuskey got into an argument, his teacher told him, "John McCuskey, you're going to grow up to be a Philadelphia lawyer." For little John, of course, this was no insult.

When will McCuskey retire? Will Slicer, a senior partner at the law firm of Shuman, McCuskey & Slicer, hopes never. He claims McCuskey, a senior partner himself, is the firm's hardest worker.

Slicer may be in luck. McCuskey says he'd like to practice as long as he can: "I'm never going to say, 'Oh, I've made some money and now it's time to retire and enjoy life.' I do enjoy

life. That's why I work late—I'm working with something that's interesting. And combining that interest with income makes for a pretty nice family life, too."

Speaking of family life, I interject, how taxing has politics been on your children? (I ask this knowing that McCuskey's son, J.B., might likely be the future of the West Virginia Republican Party.)

"Politics can take time away from your family, but my family's always been close. They always went on the campaign trail with me. My kids have some really funny and good campaign stories—and some fond memories, too. Politics has been a big part of our family. I think they would say it was for the good. So, I wouldn't do too many things over."

And we wouldn't want you to, John.

David McCullough once remarked, "Real success is finding your lifework in the work that you love." If that's true, then John McCuskey was successful long before he sat on the Supreme Court, long before he was Commissioner of Finance. McCuskey was successful the minute he realized that practicing law was like building radios from scratch—fun, varying, and above all challenging. ⚖️

### **About the Author**

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