

Evo DeConcini  
Oral History Project:  
Arizona Legal History

Interview with the Hon. Gordon Farley  
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## THE EVO DECONCINI ORAL HISTORY PROJECT: ARIZONA LEGAL HISTORY

### HISTORICAL NOTE

In 1985, James F. McNulty, Jr., former U.S. Congressman from Arizona and currently an attorney with Bilby and Shoenhair in Tucson, proposed that the Arizona Historical Society develop an oral history project to collect the reminiscences of senior judges and lawyers in Southern Arizona. As a former partner in one of the oldest law firms in the state, in Bisbee, he had long been aware of the wealth of information and experience expressed in many of his colleague's lives and careers, some of whom had been practicing law for over fifty years. In an effort to preserve and disseminate their stories and observations about the profession, the Archives Department of the Arizona Historical Society/Tucson developed a pilot program focused on Southern Arizona, with the goal of collecting the reminiscences of fifteen to twenty individuals associated with the legal profession over the last fifty years.

The project was funded through a challenge grant made by Roy Drachman and money subsequently donated by members of the Pima County Bar Association and the DeConcini family. At Mr. Drachman's request, the project was named for the late Judge Evo DeConcini, a highly-respected member of the Arizona Bar and a long-time friend.

Most of the interviews were conducted between 1986 and 1988, by Mr. McNulty. Interviews were also conducted by Robert

Palmquist, Jack August, and Adelaide Elm. Additional interviews with judges and attorneys conducted previously for other oral history projects were included with the DeConcini Project, to expand the scope of the project. The narrators, representing both rural and urban practices, were identified for inclusion by Mr. McNulty and other members of the State Bar. They included three judges, sixteen attorneys, the wife of a former state Supreme Court justice, and the legal secretary of one of the oldest law firms in the state. All transcripts and tapes are available to the public at both the Arizona Historical Society and the University of Arizona College of Law.

In addition to preserving the recollections of legal practitioners in Southern Arizona, the Evo DeConcini Legal History Project has spurred the collection and preservation of primary documents relating to legal history, such as day books, client ledgers, correspondence and photographs from law firms and individuals connected with the profession. It is hoped that the DeConcini Project will serve as a model for the collection of such memoirs and historic materials on a state-wide basis.

# THE EVO DECONCINI ORAL HISTORY PROJECT: ARIZONA LEGAL HISTORY

## SCOPE AND CONTENT NOTE

This collection consists of 43 cassette tapes (60 to 90 minutes in length), thirty-two 1/4-inch audio tapes, and twenty-one transcripts produced for the "Evo DeConcini Oral History Project: Arizona Legal History" by the Archives Department of the Arizona Historical Society between 1986 and 1988.

The collection is arranged in two series: (1) Oral interviews conducted for the project; and (2) Oral interviews gathered from other projects.

Series One consists of fifteen interviews: (1) Charles Ares; (2) Ralph W. Bilby; (3) Thomas Chandler; (4) Elizabeth Daume; (5) Ora DeConcini; (6) Gordon Farley; (7) Martin Gentry; (8) Thomas L. Hall; (9) Virginia Hash; (10) Norman Hull; (11) Ashby I. Lohse; (12) James F. McNulty, Jr.; (13) James Murphy; (14) Alton C. Netherlin; (15) Joseph C. Padilla; and (16) Wesley Polley. Interviews 1, 2, 3, 5, 6, 7, 8, 10, and 13 were conducted by Mr. McNulty. Interviews 11, 14, 15 and 16 were done by Robert Palmquist. Adelaide Elm conducted interviews 4, and 9, and Jack August conducted interview 12.

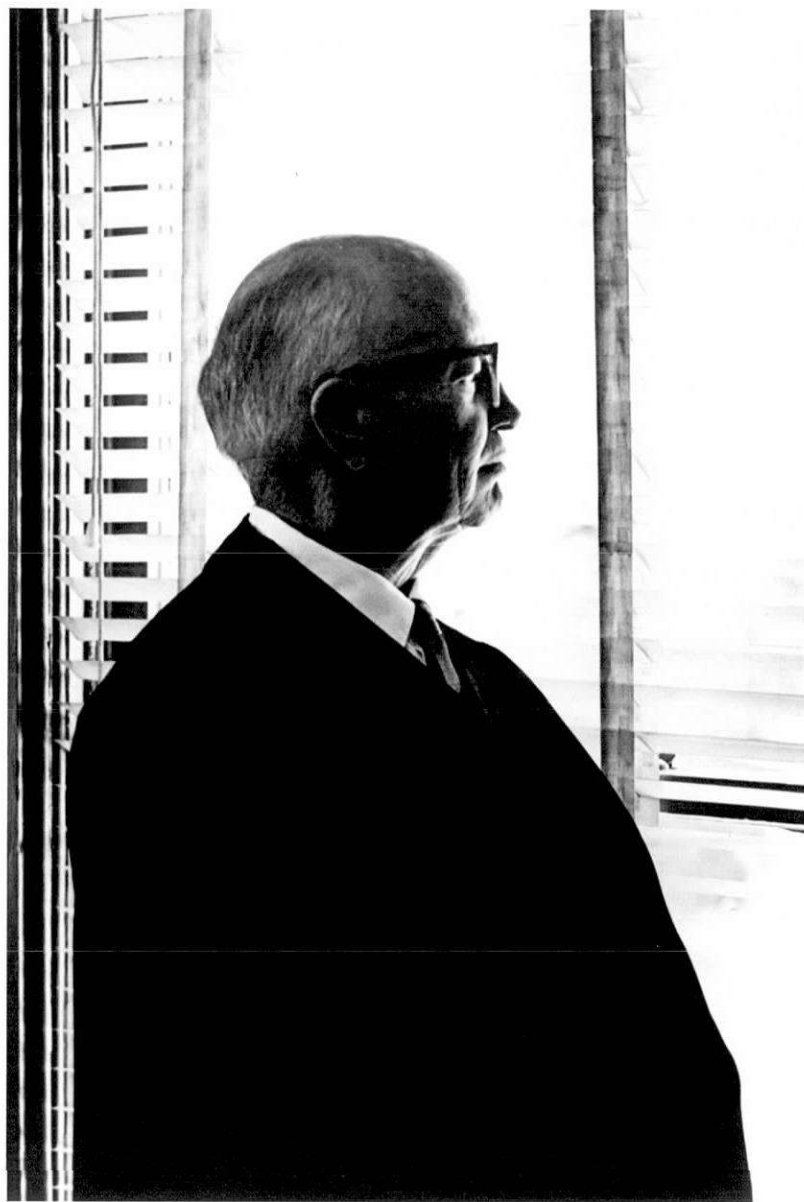
Series Two consists of five interviews: (17) Harry Gin; (18) Don Hummel; (19) Kayzel B. Daniels; (20) Rubin Salter; (21) Rose Silver. The Gin interview was conducted by Bonita Lam for the "Chinese in Tucson" project; Don Bufkin, Acting

Executive Director of the Arizona Historical Society, conducted the Hummel interview; Richard Harris and Carol Jensen conducted the Daniels interviews; Baiza Muhammad interviewed Salter for the African-American History Internship Project; and Rose Silver was interviewed by Mary Melcher for the "Women and Work: An Aural History," a joint project of the Arizona Humanities Council and the University of Arizona.

The bulk of the collection deals with the experiences and observations of these individuals relating to the legal profession in Southern Arizona over the last sixty years. The interviews document the following topics: education preparatory to the profession (law school, reading law, the bar exam); legal practice during the Depression, and the influence of the New Deal; relationships between the legal profession and politics; the role of judges vis a vis the Bar; the increasingly litigious nature of society; the effect of social changes on the practice of law; the experiences of women and minorities in the profession; and post- World War II changes in the legal system. Of particular interest are anecdotes about particular cases and clients; histories of several old law firms in Southern Arizona; University of Arizona Law School professors and courses of study; opportunities some had to practice law without a law degree; and remembrances of the colorful individuals who influenced the profession in Territorial days and early statehood.

The collection is valuable for its comprehensive look at

the law profession in Southern Arizona over the first half of this century, and its emphasis on the changes which have occurred within the profession during that period.



## Gordon Farley Interview

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### Gordon Farley Interview

Gordon Farley, born in 1908 in Michigan, came to Patagonia, Arizona, with his family in 1918. After graduation from Patagonia High School in 1928, he attended the University of Arizona, receiving his law degree in 1934. He began his law practice in Nogales and married Virginia Sayre in the fall of 1934.

The practice of law providing an uncertain income during the Depression years, Farley expanded his activities into the political realm, serving first as Nogales city attorney, and later as a state representative. Resuming his law practice in Nogales briefly, he then ran for the judgeship of the Santa Cruz Superior Court. He was elected in 1938 and served in that capacity for the next forty years. He served longer on the Superior Court bench than anyone else in the history of Arizona. He also acted as judge pro tem of the state Supreme Court several times.

This interview is of particular interest because of Farley's long association with lawyers and judges in Southern Arizona. Farley draws verbal pictures of many of the people with whom he was associated, among them Duane Bird, Charles E. Hardy, and Samuel Fegtly. He tells several anecdotes about law cases with which he is familiar, such as the John Van Buskirk murder case.

As one of the few judges in the state who speak both Spanish and English, Farley offers valuable insight into the

advantages on the bench of being bi-lingual. He discusses our system of delivering justice, and changes he has seen in methods of resolving conflicts and in society's attitudes toward the law.

Farley's observations from his lengthy vantage point as a judge give him a unique perspective on the legal profession.

## GORDON FARLEY INTERVIEW

It's June 2, 1987 and I'm James F. McNulty, Jr., for the Arizona Historical Society doing part of the oral history of laws and lawyers in Southern Arizona in the twentieth century. And I'm very pleased to have as a guest today Gordon Farley of Nogales, in Santa Cruz County, Arizona, a long-time Superior Court Judge of Santa Cruz County and one of the best-known and, I must say, most respected members of the Bar.

McNulty: Judge Farley, welcome here this afternoon.

Farley: Thank you very much, Jim. I appreciate those kind words.

McNulty: Judge, we've begun these histories in the past by doing some biographical stuff and I'd like to do the same thing with you. Will you tell us where and when you were born?

Farley: I was born [September 17, 1908] on the Upper Peninsula of Michigan, a little wide spot in the road called Carney, Michigan. My father, at that time was engaged in a little farming in the area, and also some mining not far from Carney. We lived there very briefly as far as I was concerned, because shortly after I was five years old we moved to Chicago and lived in Chicago. At that time my father was engaged in a mining enterprise and organized a company called the Exposed Reef Exploration and Mining Company for a property that he had arranged to lease in the area near Patagonia on what is known as Red Mountain. He operated that mine for a number of years. He was

financed by some of his acquaintances in Chicago and the venture ultimately didn't work out to his satisfaction. But nevertheless we remained in Patagonia. The family came to Patagonia in the fall of 1918 when I was nine years of age. I had attended school of course for a few years in Chicago but most of my educational background took place in Patagonia.

McNulty: Did you go to grade school in Patagonia?

Farley: Yes. I graduated in Patagonia in the eighth grade, and then there was not a high school at that time in Patagonia. But my sister, my older sister, one of them, married and lived in Nogales and I went in Nogales for one year. Then I returned to Patagonia to live with my parents again and went to work in Patagonia. First I worked as a go-fer for the man that operated the garage in Patagonia, who is well-known. His name is R. C. "Buck" Blabon. I worked a couple of years for him and then I went to work in the pool hall in Patagonia for a very dear person. His name was R. A. Campbell. Bob Campbell. He served on the Board of Supervisors for one term in Santa Cruz County. I pretty well ran the pool hall because he was almost blind. He was blinded, I think, in a mine accident in Bisbee. He moved to Patagonia after he had that injury.

McNulty: How did you travel back and forth from Patagonia to

Nogales?

Farley: Well, we had what we called the stage, you know. It was operated by a man by the name of R. C. Laney, whose widow still resides in Nogales. He operated the Nogales-Bisbee stage and we could go by that means of transportation, although initially after we moved to Patagonia the train ran between Fairbanks and Nogales, but they, in later years, dug up all the rails and eliminated that means of transportation.

McNulty: But you could have ridden a train to Nogales?

Farley: Occasionally we did ride the train to Nogales from Patagonia. We called it the Dinky. It was a little self-contained train. When we first arrived in Patagonia they had a regular steam engine with a passenger train and a freight car and a caboose on the train, but that only lasted, oh I guess a couple of years after we were there.

McNulty: When you got to Fairbanks you could have gotten on the main line then, I guess . . .

Farley: Yes.

McNulty: . . . and travelled all over the country.

Farley: That's how we came to Patagonia, by means of the train. I remember stopping in Benson and also stopping in Fairbanks to . . .

McNulty: Change trains.

Farley: . . . take the train to Patagonia.

McNulty: So, back then to your running the pool hall in Patagonia, how long did that go on?

Farley: Well, they organized the high school in Patagonia, called the Patagonia Union High School which comprised the area not only immediately in the vicinity of Patagonia, but also the northeastern part of Santa Cruz County. I continued to work in the pool hall for the remainder of my high school term, and for the year after I graduated from high school, which was in 1928.

McNulty: How old were you when you graduated from high school?

Farley: I guess I was eighteen.

McNulty: I see.

Farley: Eighteen. My recollection about dates and ages is not too sharp. But I think that's correct. I had the good fortune, as I told you earlier, to have worked for a man who had no family of his own, so he sort of adopted me. My father was busy prospecting. He was an ardent prospector and he was always going to strike it rich right over the hill all the time. But unfortunately it never worked out that way. But I had a benefactor, as I told you, to help me over the rough bumps, from time to time. Whenever I got into a predicament where I didn't have any finances, why he or some of my other friends in Patagonia came to my rescue and . . .

McNulty: Who was this benefactor?

Farley: Mr. Campbell, Bob Campbell.

McNulty: I see.

Farley: I used to do little odd jobs for people that were not too well-versed in writing around there and I got sort of a little reputation for being able to write a letter for people. Among them was a man who worked as a miner, and he came from Michigan, and when he learned that I was a native of Michigan why there was a certain affinity for me on his part. At any rate, he still had some family in Michigan and he used to ask me to write a letter. He would say that his vision was very poor and he couldn't consequently write these letters to his family. Actually he was totally illiterate, but he was too proud to admit it, you know. I wrote the letters for him and never charged him anything, but while I was attending the university, when I came to Patagonia he'd always ask me if I needed any money. (laughter) And I frequently did, so he was very kind about that. He supplemented my income quite often.

McNulty: Judge, when you mention stages earlier, are you talking about horse-drawn stages or . . .

Farley: No, no. There were motor vehicles. Usually just the touring cars, you know. At that time many of the cars were not sedans, they were open touring cars and



initially the stage line was first operated by an open vehicle. It was sort of windy and . . .

McNulty: Indeed.

Farley: But it was very reliable. They carried the mail from Patagonia, I mean from Nogales to Patagonia and then on to Sonoita and then on to Bisbee. That was particularly so after the trains were eliminated.

McNulty: Yes.

Farley: The mode of transportation was primarily by the stage unless you had a car and there were very few cars that were owned by residents of Patagonia at that time.

McNulty: Was mining the biggest single business activity?

Farley: Yes. The mining and, of course, the cattle industry too. There were a lot of cattle in that particular area. Small operations compared to what, the way they are now. Most of them have been consolidated into fairly big ranches now. But it depended primarily on mining ventures for the existence of the people in Patagonia.

McNulty: How big was your family? How many brothers and sisters did you have?

Farley: There were five of us that lived to come to Patagonia. There were a couple that didn't survive infancy.

McNulty: When did you decide that you wanted to go to the

University of Arizona, or to any higher education?

Farley: Well, I was sort urged right from the first time I went to work for Bob Campbell. He was the one that really that inspired me and urged me to plan on going to the University.

McNulty: Were you talking about a career in law at that time?

Farley: Yes. He thought that that field would be a very good venture in that area of Arizona. And by reason of his tenure on the Board of Supervisors he had become acquainted with the lawyers in Nogales and he felt that there was an opportunity for other lawyers in that community.

McNulty: Had any members of your family ever gone to college anywhere at any time?

Farley: Well, not to my knowledge, no. I was the only member of my immediate family that attended the University.

McNulty: Neither of your parents, nor as far as you know their parents, ever had gone to any colleges or universities?

Farley: No. No, you see, my mother was a native of Ireland and she came over to the States when she was fairly young. And my father was a native of Wisconsin and he became engaged in mining ventures at a very early age I think. They were both literate people but their education was very limited.

McNulty: Where did your parents meet one another?

Farley: In Butte, Montana.

McNulty: Oh. Lots of Irish there, right?

Farley: What?

McNulty: Lots of Irish there?

Farley: Yes, there were. My father was working in the mines there and my mother had a sister, that's how she happened to come to Butte, to live with her sister. They met and were married in Butte, Montana, and my older brother and my older sister were both born in Butte.

McNulty: With a name like Farley your father must have had some Irish antecedents as well.

Farley: Yes. Yes, I think his father was a citizen of Canada, but I believe that his origins were as a native of Ireland.

McNulty: Did you then enroll at the University of Arizona?

Farley: Yes, I did.

McNulty: Was it in the September following your graduation from . . .

Farley: Yes it was.

McNulty: And that would have been what year?

Farley: That was in the fall of 1928.

McNulty: Did you enroll in a particular college in those days?

Farley: Well, we had to take, at that time, two years of pre-law in Liberal Arts College, say, and I consequently enrolled in liberal arts and took the two years

of . . .

McNulty: Pre-law?

Farley: . . . of pre-law. And then I had to drop out after I enrolled in law school, for a year, to earn enough money to continue my education, so I missed one year, but I graduated in 1934, from the University of Arizona College of Law.

McNulty: It was a three-year course even then?

Farley: Yes.

McNulty: Do you remember the Dean and some of the professors from those days?

Farley: Yes. I remember in particular Dean [Samuel M.] Fegtly, who was a very dedicated man, I thought. He was a very interesting man because he was an unusual personality and he was dedicated to the legal profession and particularly to the law college. He--I had thought that, until I discussed this with you earlier, that he had organized the law school not too many years before I was enrolled in law school. But I stand corrected in that regard.

McNulty: I think he was the first and had been there some time. He had Michigan antecedents too, did he not?

Farley: Yes, he did. He had taught, I think, as a professor at the University of Michigan, because he took great pride in the fact that they remodeled the law school building at that time and they patterned the

classrooms after the classrooms at the University of Michigan.

McNulty: You finished your two years of pre-law in the College of Liberal Arts in 1930. Did you have to take a test to go to law school, then, or did you have to have a certain number of units completed. Or did you have to have a certain grade average, or perhaps all three of these things?

Farley: As I recall you had to have a certain grade average as well as a minimum number of units. I've forgotten what they were, but it seemed to me like we used to have to take about fifteen a semester, minimum, and consequently it would require about sixty units to get into law school.

McNulty: Who were some of the professors of law whom you remember?

Farley: Well, of course I remember the former dean of the Law School and later president of the University, McCormick, [J.] Byron McCormick. He taught Contracts and some other courses, but particularly Contracts. And then Chester [H.] Smith, who was a professor there that had a review course. After we graduated, why most of us took a review course from Chester Smith. And, oh, there were some lawyers that were practicing in Tucson that were teaching water law and specialized courses that were applicable to Arizona,

as well as some others that were retained as professors. I, of course, knew John [D.] Lyons before he became a professor, because he was, I think, a contemporary of mine in law school. I'm not sure just what his class was, but I think he was pretty close to mine. And he later became, in addition to dean of the law school, he was appointed a judge in Pima County and served in that capacity.

McNulty: Judge, you graduated then from the College of Law in May or June of 1934. Did you take the bar examination right away?

Farley: Yes. I did.

McNulty: And of course passed it?

Farley: Yes, at that time I was pretty dedicated. I had taken Chet's, Smith's, review course and I don't mean to be bragging or anything but I was third in the class that passed the bar that year.

McNulty: Yes. I knew that you had scored very highly. Did the thing take the three or four months that it does now, or did you find out fairly soon afterwards that you had passed?

Farley: No, I think we took it in late July, as I remember, and we didn't know until October, so some time in October as I recall.

McNulty: Had you gone back to Patagonia by then?

Farley: Well, I had gone back to Nogales. I went to work in

Nogales on a temporary job. It was a census-taking thing and, in the fall of that year [1934] my wife and I were married, so. . . .

McNulty: Her maiden name was what?

Farley: Virginia Sayre. Her father was a pioneer customs officer along the border between Mexico and the United States. And her mother's family were pioneer ranchers in that area, the Sorrells family. She was an only child and. . . .

McNulty: Had you known her in Patagonia?

Farley: Yes, I did. Yes.

McNulty: As soon as you were advised that you had passed the bar did you go to work as a lawyer somewhere?

Farley: Yes. I told you about Nasib Karam before we got onto this recording, but he and I opened a law office together. He was a contemporary of mine, too.

McNulty: At the University of Arizona College of Law?

Farley: Yes. I think the last couple of years; he took his final two years of law school there. And he passed the bar the same time that I did. And so we opened a joint office in Nogales. But that was, of course, during the Depression years and it was very tough going for private lawyers. So I became engaged in a political campaign for the Mayor of the City of Nogales by a very colorful but somewhat erratic type of candidate, but anyway he was successful. His name

was Andy [Andrew L.] Bettwy. You may have heard of him. At any rate, when he took office in June of, the following June why he appointed me City Attorney. So I had a little retainer there of a hundred dollars a month which in those days was pretty good income.

McNulty: This is Andy Bettwy whose son later became the State Land Commissioner?

Farley: That's correct.

McNulty: Whose grandson Andy Bettwy is a practicing attorney in Phoenix . . .

Farley: That's right. Yes.

McNulty: . . . to this day?

Farley: Yes.

McNulty: So you worked as City Attorney and you and Nasib Karam were still in partnership?

Farley: No. We terminated our partnership because I was campaigning for one candidate and he was campaigning for another. But we remained friendly enemies nevertheless. But we decided that it wasn't appropriate to continue under those circumstances. But after the term, the first term, the only term of Andy Bettwy, why he was defeated because of the fact that he inaugurated some programs that weren't exactly approved by the populace of Nogales. He was succeeded by a man by the name of Cheshire, so I saw the handwriting on the wall, so to speak, and I ran



for the House of Representatives, and fortunate enough, I was elected to that post.

McNulty: What year would that have been?

Farley: During the time that Governor [Rawghlie C.] Stanford was governor. That would be about 1936 and 1937, I think.

McNulty: I see.

Farley: It may have gone into early 1938. I've kind of forgotten.

McNulty: This is Rawghlie Stanford who later became a member of the Arizona Supreme Court?

Farley: That's correct. Yes. We had seven, I think, special sessions during that two-year term, because it was at a time when everybody was trying to figure out some way to give business a jolt to improve employment conditions and whatnot. So the governor called, I think seven special sessions. So my income was from that source during those two years, pretty much. Because I couldn't practice law. Oh, I did do a little on the side, but nothing very substantial, really.

McNulty: How did you travel back and forth to Phoenix? By automobile?

Farley: Well, I didn't have a car at that time, but I rode back and forth almost on every occasion with the man who was senator from Santa Cruz County. That was

James Harrison. He had been a senator before and-- actually he was, I think, a senator during the first stages of statehood. And then he sort of went into retirement and then resumed the office again--at the time I was in the House of Representatives, why he was a senator from Santa Cruz County. At that time, of course, they had at least one senator and one representative from each county, before they changed it to where they have these districts, now, that are very confusing to some of us.

McNulty: Indeed. Indeed they are. Did you just serve the one term in the House of Representatives?

Farley: Yes, I did.

McNulty: When you gave that up did you resume the practice of law in Nogales?

Farley: Yes. I worked for a while in organizing the employment offices around the state. This was while I was still a member of the House of Representatives. Governor Stanford offered me the post to do this, and this was a program that was novel in the state at that time. We did have employment offices but they inaugurated the unemployment compensation law and nobody knew how that was supposed to function, so it was my responsibility, first to learn the nature of the law, which was patterned to a great extent after the State of Colorado. I studied Colorado

unemployment law, and then with the help of, of an attorney in Phoenix that I knew very well--he was designated by Governor Stanford to lend his services--I went around the state and set up these unemployment offices. So that job lasted probably eight or nine months and then I went back to Nogales and went into practice again in Nogales.

McNulty: What was the name of the Phoenix lawyer with whom you worked?

Farley: I can't remember his name. He originally, I think, came from St. Johns, but I'm not, I've been trying to rack my brain. I haven't had any contact with him--well actually he died shortly thereafter.

McNulty: Judge, this was at the height of the New Deal and President Roosevelt's administration and attempting to bring the country out of the very difficult state into which it had fallen. Is that not true?

Farley: That's true. That's true.

McNulty: What was the disposition of the people? Were they, as well as you could tell, very strongly in favor of the New Deal administration's efforts, for the most part?

Farley: Oh, yes. Almost without exception in those days. Everybody was an ardent admirer of President Roosevelt and his efforts to revive the economy of the country. And of course somebody was critical,

but generally not as vocal as they are nowadays about the way the national administration operates.

McNulty: Were things really desperate in America, generally, and in the part of the country where you were living?

Farley: Oh, yes, it was very difficult to get any type of employment. I was very fortunate in that regard in getting just temporary jobs even, you know. And my income after I went back to Nogales was fairly limited because there wasn't a great deal of legal work in those days and the lawyers in Nogales at that time had a corner on the market pretty much, so to speak. To follow up on my chronology, after I returned to Nogales, I represented a few clients that could afford to pay me something and I was urged oddly enough--at that time I was twenty-nine. Some of my old friends that I had become acquainted with in Nogales, as well as friends in Patagonia, urged me to become a candidate for judge. I was pretty much of a novice lawyer at the time, to tell you the truth, but my friends were persuasive, and I had nothing to lose but something to gain if I succeeded. The man who occupied the post was the man we were talking about earlier, Dad Thurman, Elbert [R.] Thurman. He and I were friends but casual friends. I went up and told him that some of my friends were urging me to run and I felt that I had nothing to

lose and a lot to gain in any event. I would get my name before the public, primarily, if he succeeded in defeating me. And if I won, why then I had the judgeship. Well he was very gracious about it and seemed to understand it, but he decided after I won the office that he would leave Nogales and he moved to Phoenix and went into private practice there. He, by the way, was appointed judge, so he hadn't had the benefit of a campaign, really, until he and I encountered one another at the polls.

McNulty: You ran against him in the Democratic primary in 1938?

Farley: Yes. Yes.

McNulty: Judge, this election contest, did you run against Judge Thurman in the Democratic primary in 1938?

Farley: Yes. I did.

McNulty: Do you remember how close the election was?

Farley: I believe I won by about a 125 or 130 votes. It was fairly close even at that time, although the population was relatively meager in Santa Cruz County as a whole compared to what it is now.

McNulty: How old were you the day that you won the general election several months later?

Farley: Well, I won the primary when I was still twenty-nine.

McNulty: I see.

Farley: And I became thirty in September, seventeenth of September, which is Constitutional Day.

McNulty: Yes.

Farley: And so I was thirty by the time I took office.

McNulty: In January of 1939?

Farley: That's right.

McNulty: What kind of feelings did you bring to the bench at that relatively youthful age?

Farley: Well I think a lot of people were very skeptical about my ability to handle the office then.

McNulty: You couldn't blame them, could you?

Farley: No, not at all. I didn't. (laughter) I was skeptical myself. But they tolerated me for a while and I learned the ropes and I was very fortunate in this regard, too--in those days there was, I think only one judge in Pima County, who I believe was Judge [William G.] Hall, Bill Hall.

McNulty: Bill Hall.

Farley: And there were only three in Maricopa County so the volume in both of those counties was more than they could cope with and they used to call on the judges from the smaller counties to come up there and so consequently I became initiated in trial work, pretty much, in both Pima and Maricopa County with the help of some of the lawyers that I knew in both counties.

McNulty: What about some of the other judges? Did you

develope friendships with them? Did you seek help and advice from them from time to time?

Farley: Well, oh, yes. Particularly in Pima County. Bill [William G.] Hall was very cooperative with me. Judge [Fred W.] Fickett, who had preceded him--he married my wife and I a couple of years before that--he came in on a number of occasions just to visit with me and he offered suggestions that were very helpful. I, of course, appreciated the judges in Maricopa County, whose names elude me at this stage. I hadn't thought about them . . .

McNulty: Was Art [Arthur T.] La Prade one of them?

Farley: No. He came on after I did. But one of them was a judge later on the Supreme Court, a white-haired man that I know you would remember.

McNulty: Judge Phelps?

Farley: Phelps. Yes.

McNulty: Marlin [T.] Phelps.

Farley: Yes. He was very helpful to me too.

McNulty: So you were elected Superior Court Judge in 1938, and how many times after that were you re-elected?

Farley: Ten times.

McNulty: And you served until when?

Farley: I served until the first few days of 1979. Four-year terms on ten times, ten occasions.

McNulty: So you served forty years on the bench?

Farley: That's right.

McNulty: Do you know how many other judges in the history of Arizona have served that many years on the Superior Court bench?

Farley: No one has. That tenure, even in combination with the Supreme Court service, none of them could qualify for that long a period of time because of the age requirements, you see. You have to be at least thirty and you have to retire at age seventy. Most lawyers now, I notice, that ascend to the bench are usually in their, well, medium thirties.

McNulty: So, with perfect timing, somebody else might someday tie you, but nobody will ever exceed that, will they?

Farley: Probably not.

McNulty: Judge, you were a very young person to be going on the Superior Court bench at the--considering that you were elected at the age of twenty-nine. Were you the very youngest ever to serve as a Superior Court judge in Arizona?

Farley: No, I understand that Carl Mangum of Coconino County was a month or so younger than I was when he was elected to be the judge in Coconino County. But he only served one term and then, well he first went into the service at that time--by that time we were in the 1940's--and he went into the service as a colonel or something. I think he had had some



military training before he became judge.

McNulty: Were there pressures on you to join the service or was the government's position that they needed to keep judges in place and on the job during the war?

Farley: That was the case. The judges were exempt from service at that time. By that time I was married too, and we had adopted one of our children. Later we adopted another one and then two of them were subsequently born to us.

McNulty: Over the years, Judge, you must have some recollections of people, lawyers, let's start with them, who you particularly remember for particular traits or qualities. Could you talk about some of them with us, please?

Farley: Well, I think perhaps the most colorful lawyer that operated out of Nogales that lived during my term down there was perhaps Duane Bird. He had a reputation that was recognized throughout Southern Arizona, in all jurisdictions. He had been a mayor of Nogales during the time they incorporated the City of Nogales and he was the man that composed the City Charter of the City of Nogales, which is the pattern that they are still following pretty much, even today. His father was a recognized editor of Southern Arizona. He operated a newspaper in Nogales. He had a brother who was also active

politically. He was a former county recorder in Nogales.

McNulty: Was he flamboyant in the courtroom?

Farley: Yes. He was very flamboyant and very able in the process. He undertook every type of case that you could conceive of at that time. He generally was very successful in what he undertook to do.

McNulty: Had he been educated at the University of Arizona?

Farley: No. He was a graduate of the University of Michigan, too. He was, by the way you probably knew, still know, his stepson, Tom Hall?

McNulty: Judge, we're going to do Tom Hall's oral history in about two weeks.

Farley: Oh, is that right?

McNulty: Yes.

Farley: Well, Tom has an excellent memory. He could probably remember some of these details that have slipped my mind much better than I can relate them. In addition to Duane Bird, James V. Robins was also a well-known attorney in Nogales and he was also a former mayor of the city. Actually he was a mayor while I was on the bench. He was the son-in-law of Judge Frank [J.] Duffy, who was the first judge in Santa Cruz County after statehood. I believe Judge Duffy was appointed by the then governor of the state to serve as the superior court judge, but his tenure was very brief,

because they called an election and I don't think he wanted to run for re-election. At any rate he was succeeded by a man by the name of Marsteller, Judge Marsteller. Massilon [A.] Marsteller. He must have had some French antecedents, with that name. Shall I tell you the chain of judges that existed? Would that be appropriate?

McNulty: Indeed. Indeed it would.

Farley: After Judge Marsteller, Judge W. A. O'Connor was elected and he had been, prior to the tenure of Judge Duffy, probate judge. There was a distinction in those days between the regular judges and the probate judges, and Judge O'Connor had served in that capacity, which was sort of a dull type of the judicial branch at that time.

McNulty: Yes.

Farley: Limited to probate matters, I guess. He served, then, until his death and was succeeded by Judge Charles Hardy, who was the father of Judge [Charles] Hardy that's on the U.S. District Court in Phoenix. He served also the Superior Court there.

McNulty: Yes.

Farley: After Judge Hardy, why Judge [E. R.] Thurman was appointed to succeed Judge Hardy who died in office, actually. Judge Thurman served at the time, up until I succeeded him, as I told you earlier, and then he

moved to Phoenix and went into practice there and later was appointed by Governor [Ernest W.] McFarland to the Superior Court of Maricopa County. So he had the distinction of having served in two counties as Superior Court judge.

McNulty: He's probably the only one of whom that's true.

Farley: I think that's probably true. By the way he was instrumental, as I understood it, while he was in practice up there, of organizing the Western Savings organization, Building and Loan, you know?

McNulty: Yes.

Farley: Which is now one of the largest, if not the largest, in Arizona. And then he took the judgeship after he had organized that company. There were some other lawyers that may be of interest to you that you should know about in connection with an historical aspect of the legal profession in Santa Cruz County, and one of them was Fred Noon. He had served during Territorial days and was in the same category as Duane was. He was an all-around attorney and very popular with the people in the community, because his father had been one of the founders of Nogales as well as the founder of the community that was then know as Ruby or Oro Blanco. Some of his descendants still have ranching properties in that area. Fred Noon served as County Attorney in Nogales and upon

his retirement from that post he decided to move to San Diego and went into practice in San Diego. And was very successful there too. His son, Bonsal Noon, succeeded his father as County Attorney and he served in that capacity for, I think, two terms and then left and went to San Diego to join his father's law firm there in San Diego. By that time of course the Depression was really becoming pretty acute around Nogales. And one of the other attorneys that practiced during my tenure as judge was G. A. Little, Gal Little. And he was having a rough go of it. His father was an American attorney by the name of Malcolm Little who practiced Mexican law.

McNulty: I met Malcolm Little . . .

Farley: Did you?

McNulty: . . . in Mexico City in the . . .

Farley: Now that's the son of the Malcolm that I'm telling you about.

McNulty: I see.

Farley: The Malcolm that you knew is a brother of Gal Little.

McNulty: I see.

Farley: And he practiced in his father's footsteps and went into Mexican law. Although he was trained in the States. Now I'm not sure whether he attended law school at the University of Arizona or not. I don't think he did. It seems to me that he took his law

degree in some other law school.

McNulty: A contemporary of mine named John Little is related to these folks, is he not?

Farley: Well, he's Malcolm, Senior's son. He's a half-brother of the Malcolm that you know.

Tape 1, Side 2

Farley: Incidentally, I didn't mention this to you when I was telling you about my campaign for judge against Dad Thurman. After I was successful against Dad, Malcolm Little, Senior, ran on the Republican ticket against me, because he felt, I guess, that a lot of people would support him against this youngster that was on the Democratic ticket. And I was successful in that race as well. (chuckles)

McNulty: But by a pretty good-sized margin, I would suspect.

Farley: Yes.

McNulty: Were there many Republicans around Arizona in those days?

Farley: Not very many. Not very many. There were a few die-hards that, even today some of them that are still alive are . . . (chuckles)

McNulty: But Republicans rarely won political office.

Farley: That's true. Although there were some that were successful, even during the Depression years. One of

them in particular you mentioned--Lawson Smith.

McNulty: Yes.

Farley: His brother who is engaged in business in Nogales, Don Smith, his wife's family were all Republicans. Doris Smith's mother and father. And her father was on the Board of Supervisors at the time I was telling you about my friend Bob Campbell being on the Board of Supervisors. And he was a Republican, Fred, Fred. . . . Fred Hannah was his name.

McNulty: Hannah.

Farley: Fred Hannah.

McNulty: Yes. These judges that you mentioned. Did you know many of them? For example, did you know Judge Duffy?

Farley: Yes. Judge Duffy practiced in Nogales on a sort of a retired basis, but he kept busy. He was associated with Jim Robins until his death and he had many contacts throughout the county, because of his wife's family. They were distantly related to my wife's family too. And most of them were engaged in the cattle business. Well, consequently he had quite a clientele that Jim Robins inherited after Frank Duffy became inactive.

McNulty: What were Judge Duffy's particular characteristics as you remember them?

Farley: Well, he was a very gracious man, a very kindly man, too. And everybody that knew him loved him and

respected him. He delegated most of the work that came into the office to Jim Robins in the time that I knew him. Consequently I never had much of an occasion to deal with him. I think maybe on a few little probate matters or something like that he would come up, but otherwise he didn't spend much time in the courthouse.

McNulty: You mentioned Judge O'Connor. Did you know him?

Farley: Yes. He used to come to Patagonia to campaign during the time that he was running for judge. And I can recall he used to spend, because of the difficulty in transportation in those days--I don't think he drove--so he would come out on the Bisbee stage and stay overnight at the hotel there in Patagonia, in the Commercial Hotel, which no longer is in existence in Patagonia. And then he would visit around the town and then--of course he had died before I engaged in practice in Nogales. But Judge Hardy was on the bench at that time when I began. He was a very nice judge, but he only lasted a few months because of his health. His brother, you may have heard of him if you didn't know him. I think he . . .

McNulty: Les Hardy?

Farley: Les Hardy. Yes.

McNulty: Yes. Who . . .

Farley: Les practiced in Nogales initially but then he gave



that up and went into the Attorney General's office in Phoenix and remained in private practice there after he left that office.

McNulty: This is the man who headed up the 1954 code commission when we redrafted the Arizona Revised Statutes?

Farley: That's correct. Yes. He was a very able lawyer, I always thought. To have undertaken that job and to have done such a fine job in the process, you know?

McNulty: Yes.

Farley: Because I always admired his ability. His brother, Charlie Hardy, wasn't the student that Les was, but he was nevertheless a very fine person and, oddly enough, their father was a character in Nogales. Although he wasn't a member of the legal profession he was justice of the peace down there for many, many years. And he had the reputation of being, as I said, a character. (laughter)

McNulty: He was certainly one of the most flamboyant justices of the peace that ever lived, was he not?

Farley: Yes. They tell a lot of tales on him. One of them was that he was also acting as police judge and on one occasion during the Prohibition Era--he liked to indulge in tequila so he would go across the line and bring over a bottle in his pocket to carry him through the day's work. On one occasion he came over

and he got up to the area where the city hall was at that time, and the police station was part of the city hall, as well as the judge's chambers there. He stumbled as he approached the city hall and the bottle that he had concealed on his person some way broke on the sidewalk in front of the city hall and the policemen were standing around there at the time and one of them who was new to the game, I guess, said, "Well that man is smuggling liquor across the line and it's against the law." So this young policeman took him into custody and he submitted all right. He said, "Well I'm going to hold this case"-- after the young fellow realized who he was, why he wanted to drop it. And the judge says to him, "No." He says, " You arrested me legally. And I'm going to hold this case tomorrow and you be present. And you can testify." So the fellow did and the judge said, "Well, I find the defendant guilty." (laughter) I think he fined himself twenty-five dollars or something like that, but it became a classic story among the legal profession and the whole town for that matter. (laughs) Judge Hardy was justice of the peace, oh, for several years after I was elected. And we were friends and got along very well. He used to come up when he had problems and ask my advice about them and I generally gave him some advice that

seemed to fit his disposition pretty well.

McNulty: Were there justice courts in other parts of Santa Cruz County in the 1930's?

Farley: There was another justice court that I should tell you about that was very interesting. But they abandoned that at the time of statehood. Prior to statehood a man by the name of A. S. Henderson was the justice of the peace in Patagonia and then there was a man who was also a justice of the peace at Tubac. [Judge Rosenberg] His daughter practices law here in Tucson, Mary Stella Cota-Robles nee Rosenberg. Her father was justice of the peace in Tubac prior to statehood, I think. Anyway, the justice of the peace in Patagonia was really a character. He operated a store in Patagonia, a general merchandise store. He was a man that used to grubstake miners and consequently his prices were terribly exorbitant. But he had to provide for the fact that many of the prospectors couldn't come up with any money, so those that did had to pay his high prices. But prior to statehood he was also a Republican and was appointed by the then-governor of the state prior to statehood to fill the post of justice of the peace, which was at that time a fee job. So, the Mexican people around Patagonia, many of them, were close friends of mine and ardent

supporters of me when I ran for political office in whatever area. And they used to call him by a nickname. They referred to him as Cara de Macho. Cara meaning face and de Macho is a mule face. Macho is now used in a different term, you know, as a man of great vigor, but in those days it was a derogatory term. (laughter) And he really fit the character of being mule-faced. He had a very long, dour look on his face and in looking over some of the entries that were kept by him in his docket, which a friend of mine in Patagonia still has--I don't know how he got hold of it but he has. I think it should have been in historical quarters of some kind. But it was easy to see that he was doing pretty well with his fee system in those days. He had all kinds of little entries there that paid according to the code all right, but he was doing pretty well. I think better than he was in his grocery store. Well, I got off on a tangent on a couple of justices of the peace.

McNulty: Well, I'm glad we did. That's kind of interesting.

Farley: One of the, well, more active attorneys, I characterize them as such, during my tenure as judge, was a man that you knew very well, Nasib Karam.

McNulty: Indeed I did.

Farley: And he was very active in Santa Cruz County and very successful as an attorney. He served as City

Attorney for many, many years, as well as served as County Attorney. After he had returned, I believe, from Cochise County. He practiced there for a couple of years, I believe.

McNulty: That's interesting. I didn't know that.

Farley: He was appointed Deputy County Attorney in Cochise County and . . .

McNulty: Was this when Frank [E.] Thomas was the Cochise County Attorney?

Farley: I believe that's correct. I've forgotten who was the County Attorney, but I think it was Frank. And then he decided that he wanted to come back to his home town and I think he was offered the City Attorney's job and later he was elected County Attorney, I believe. I may have the chronology a little bit off, but that generally is it.

McNulty: Nasib was a very capable lawyer, was he not?

Farley: Yes he was. Yes. And he was very considerate of his clients and took on the pobres as well as the ricos, you know.

McNulty: Yes.

Farley: And there were a lot of pobres in those days. He went into the service, though, during the war, the Second World War, and then returned again to Nogales after that.

McNulty: Some other lawyers that . . .

Farley: Ruffo Espinosa.

McNulty: Oh yes.

Farley: Did you know Ruffo?

McNulty: I did.

Farley: He had an interesting background in that his father was a Mexican attorney and he had a brother that was also a Mexican attorney that you may have met on your trip to Mexico City that you were telling me about.

McNulty: Yes. Arscenio.

Farley: Yes, Arscenio. Ruffo died about three months ago. And he had been engaged in the practice in Los Angeles after he left Santa Cruz County, having served as county attorney and then he decided that the field was greener in Los Angeles and he was right. He was very successful while he was in Los Angeles. Then, of course, you know Jim Hathaway who was on the Court of Appeals.

McNulty: I do.

Farley: He served as County Attorney. He was very gracious with me throughout all of our relationship except on one occasion we got into a little hassle. It didn't amount to very much, but we had a difference of opinion about some things and we brushed them over.

McNulty: Judge, you've talked about some of the old-timers in the Bar, but there are certainly some members of the Bar still currently practicing whom you knew and

about whom you have some opinions and interesting observations. Could you tell us about a few of them?

Farley: Well, yes. I could mention a few of them, I think. One in particular that was associated with Duane Bird after Tom Hall left his office to take a job here at the University was Jim [James P.] Haythornewhite, who is still active in the profession in Nogales. Jim, I think, grew up in Douglas and then . . .

McNulty: Yes, he did.

Farley: . . . went to the University and after he was admitted to the Bar he practiced in Phoenix for a while and then came to Nogales to join Duane Bird and he has been very successful and is a very fine person and a very able lawyer, in my opinion. I have a high regard for Jim Haythornewhite. In addition, another former county attorney is Lee Larsen who is in private practice and who is also a very competent attorney. He is associated with James Soto and some other younger attorneys that have been recent accessions to his law firm.

There is also an attorney that I was not associated with, but that I rented an office from-- after I retired from the bench I practiced for a little short of two years until the burden became too onerous for me to continue--and that's L. B. Salsbury, or Bernie Salsbury, who operates an office

out of Sonoita, Arizona. But for a while he did have an office in Nogales. Bernie is a former attorney from Ohio, who retired from his law practice there and moved to Sonoita. I guess he became bored and took the bar in Arizona and was successful and practiced for a while out of his hat in Sonoita and then opened his office in Nogales. He then sold the office to a doctor that occupies it now and he returned to Sonoita and has an office now in Sonoita.

I mentioned James Soto who is associated with Lee Larsen. He's a fine person and a fine attorney. Another younger attorney that took the bar in the closing years of my tenure is Anthony Sedgewick. His father is an attorney and a graduate of the University of Arizona College of Law, but has never really practiced law. He went into the government service as a consular official, I think, in Spain and some other areas, and South America too, I believe, as well. That is, the father did. Tony now is practicing in Nogales. We have a young lady that first taught school in Nogales and then she took her law degree after having been a teacher, at the University of Arizona, and is now practicing in Nogales. Her name is Jan Smith, and she recently got married so I've forgotten what her husband's name is.



We also have two young attorneys that I know as young boys in grade school. One is Wayne Cypert and the other is William Rothstein. His parents came to Nogales in the produce business and he liked it so much that he has gone into practice in Nogales. Of course our present county attorney was active while I was still on the bench. His name is Joe, Jose Machado. And also a former assistant county attorney here in Tucson by the name of Thomas Reed, who is, in my judgement, a very competent attorney.

McNulty: Judge, thinking back over the years and these lawyers, who would be the most effective two or three lawyers that you remember, in a trial before a jury? I suppose Duane Bird would have been one such.

Farley: Well, I think no question about it. Duane was a very able attorney and he made it a business to know as many people as possible in the county, which served him in good stead in jury trials. He had a very personable approach to all the members of the panel and had a way of injecting a little humor into his examination of the prospective jurors that seemed to engage them in pleasure. So I would say that Duane was probably the most outstanding trial lawyer that I've ever encountered, to tell you the truth. I've met some others that I've thought were comparable, maybe, but they didn't have the wide approach that

Duane had in that he not only knew his case from A to Z but he also knew the opposing client's background and the juror's background, which of course in larger communities you can't do very much. But Duane went out of his way to learn everything he could about anyone that might participate in a lawsuit.

McNulty: Judge, over the years you must have had some cases that were of particular interest, that were so unusual or the results so unpredictable that they've remained in your mind. Can you tell us about a few of those?

Farley: Well, yes I think I can recall perhaps one or two or three of them. One of them that was of particular interest to the people in Nogales--and I was telling you about Duane Bird and his, I don't like to use the term antics in trying a case, but his maneuvers, I'll describe them as. It was very frustrating for him in one case in particular that he served as of counsel to the county attorney at that time. I don't recall, really, who it was that was the county attorney because I didn't try the case. I was disqualified because I was the local judge and the decedent in the case was Duane's brother. He was assassinated [in the mid 1940's] by a person that was in the transient camp at that time.

We had a transient camp where the army post used

to be in Nogales during the Depression years and one of them got into some kind of an argument over being registered as a voter because of the fact that he was in the transient camp. I think the incident in Tracy Bird--Tracy was Duane's brother--in Tracy's automobile near his apartment where he lived at that time. Either he or the fellow that was charged with his murder grabbed a gun that was in the car at the time--I think it was Tracy's gun. And shot and killed him as a result of this argument they got into.

The upshot of that case was that it was tried in Nogales and Duane was of counsel to the county attorney because of his involvement from a personal standpoint in the murder of his brother. Everybody recognized his ability as a trial lawyer. Well, to make a long story short, in spite of Duane's presence in the trial of the case the man was able to get a good defense by an attorney that was appointed for him and--my memory doesn't serve me well enough to recall who that was since I didn't try the case, but anyway he got off with second-degree murder instead of first-degree murder. Which, of course, was a big disappointment to Duane who felt that his brother was needlessly murdered over a trivial matter.

Another case of some consequence in Santa Cruz

County was known as the Bender murder case. This was a case [in the 1960's] involving two wanderers, I'll call them, that came up into the mountains in the Duquesne Mountain area and were prospecting up there. They were both sexual deviates and--this developed in the course of the trial so I'm not revealing anything that is improper--and they became acquainted with an old man that was a mining man, a prospector that had several claims. They started prospecting on some of his claims and they got into an argument with him and they killed him, it developed at the trial. And his body was never found. His family--well it was found ultimately, but not immediately during the investigation of the case.

By the time the case came to trial the body had been located. But in the course of the murder those two fellows that were accused by the county attorney although he didn't have any concrete evidence at the time--they dumped his body down a mine shaft and all the miners in the area were digging down into these old worn-out mine shafts looking for Bender's body and one of them found him in one of the shafts. I think it was about thirty-eight feet deep that they--they risked their lives to down those mine shafts to find the body. Well of course when they found it they had the corpus delicti.

I tried that case and the men were both found guilty of murder in the first degree, and I sentenced them to death, both of them. I've forgotten whether we had the gas chamber then. I think it was the gas chamber. Well, of course the appeal process ensued and the man that I had as a court reporter was unable to find his records of the preliminary hearing that was held in Patagonia before the justice of the peace out there. He--I won't mention his name, you probably know who I'm talking about--anyway as a consequence of that, the appeal took longer than usual. I think there was a lapse of about two years.

In the meantime the Miranda Decision was handed down by the United States Supreme Court. By the time the case got to the Arizona Supreme Court in its entirety, without the preliminary hearing, why the Supreme Court held that the man, the men should have been given the Miranda warning and there was nothing to substantiate the fact that they had been given the Miranda warning which wasn't even in existence at that time. So they sent it back for a new trial and the Supreme Court, of course, of Arizona, went along with it and directed a retrial.

Well this was during the onset of the Viet Nam War and the sheriff, by that time, had been deposed and was working in Thailand, I think, as a civil

employee. It would have been next to impossible to get him back here in the time that we had to try the case because transportation difficulties and everything were very hard to cope with in those days. So as a result we had a plea agreement and they both entered pleas to second-degree murder. That was the first and only time that I imposed the death penalty in a case and then I had to retract it. (laughs)

McNulty: Yes.

Farley: Or amend it after the Supreme Court handed down Miranda. So that was kind of a novel situation. One case that I also had the honor of trying was a case that took place here in Pima County. It was unique in that the decedent was John Van Buskirk who was an attorney here in Nogales, in Tucson that was very prominent, and a man for whom I had a high regard because when I was in law school we used to come to the court house whenever we had occasion. Even though we didn't have trial practice cases at the time at the University we nevertheless wanted to get our feet wet in trial practice so we would come. Many of the cases that were of interest were cases that John Van Buskirk tried.

He was a very able lawyer, a very colorful lawyer, he wore a sort of a cowboy hat, a sort of an abbreviated cowboy hat, but it was a western-style

hat, and he kept that on his head most of the time because he was as bald as I am, if not more so.

He got into some sort of a dispute with one of his clients and the client shot and killed him. Well it developed that the client was some way related to the lieutenant-governor of Texas at the time. I can't remember the lieutenant-governor's name, but in addition to having a local attorney represent him, this lieutenant-governor came out from Texas and he sort of took over the case. I was assigned the case by the local judges and I heard it here in Pima County.

Well, in addition to the fact that the decedent was a very colorful attorney here that most people recognized and knew very well in those days in Tucson, the lieutenant governor, of course, was a tremendous attraction to the people that visit the courts in Pima County. But he was a very, very difficult person to deal with. It was a murder case and of course I had to treat him with kid gloves. But he would come to court half tight and sometimes more than half tight and it would be difficult to proceed with the case with this guy half drunk all the time.

Well I finally had to call a recess after we'd been in the trial of the case, I think on the third

day, because he was so obnoxious that it was just intolerable. I had warned him repeatedly throughout the course of the trial up to that point, so I said, "We're going to declare a recess until this afternoon." This was about ten-thirty in the morning. I said, "Now I want counsel and defendant to come with me as well as, both the county attorney as well as the defendant counsel." I said, "We're going to go up to the sheriff's office"--which was still then in the courthouse in Tucson. And I said to this lieutenant-governor, I said, "Now this is the jail that we have here. You can see it's very convenient for anyone that the court sentences to contempt of court in the courtroom here. We just have a little walk up the stairs." And I said, "This is where I'm going to send you if I have any further trouble with you in connection with the trial of this case. If you touch another drop of liquor--I can't smell," I said, "but I'm going to have the clerk or the county attorney approach you and if they can smell liquor on your breath and report it to me that's where you're going to spend about ten or fifteen days before we resume this trial." And that's the only way I could cope with that guy. He stayed sober from that point on. (laughs) We resumed trial at one o'clock and from that point on



he . . .

McNulty: He drew . . .

Farley: He was a good boy.

McNulty: He was sobered up by the experience. (laughter)

Farley: I think he believed me.

McNulty: Yes.

Farley: Well I heard of a number of cases throughout my tenure throughout Arizona and I make no effort to, at this point, to recall them, but I tried cases in every county except Yavapai and Mohave County and I was invited to go up there but it was such a long way to go that I just declined. I'd gone up into Northern Arizona because I like the climate up there in the summertime, you know, but I didn't want to go to Mohave County unless I had to.

McNulty: Judge, tell me. A famous case from Santa Cruz County, of which I have heard, but the date of which I don't know, involved a Mrs. [Louise Foucar] Marshall who was charged with having shot and killed her husband [Thomas Marshall]. Did that occur when you were in Santa Cruz County?

Farley: Yes. And I honestly don't remember whether I tried the case or not. I think I did but I'm not sure. But there was an instance of Duane Bird and his ability getting a person that was the accused off of a murder charge.

McNulty: I think you're showing a great amount of restraint when you say "the accused" because normally when the old-timers talk about it the scenario is presented in the following terms. That Mrs. Marshall one night while her husband was asleep emptied a forty-four into him and that Duane Bird defended her on the grounds of self-defense. Now I'm sure there is some hyperbole in all of this, but it was an extremely difficult case and that he did an extremely good job for her.

Farley: Yes. I don't believe I tried the case to tell you the truth, but I'm not certain about it one way or the other. I do know that I came to the conclusion there was no question about the fact that she had murdered him while he was supposedly asleep, at least that was the way that it was presented in court. But Duane was able to establish, I guess, that he had abused her over a long period of time and she was apprehensive about his behavior when he was awake. I thought it very ironic though that the Marshall Foundation should sponsor habitations for homeless men. [Marshall Home for Men] (laughter) When she apparently didn't regard one man, certainly, very kindly.

McNulty: Others have said that Duane's genius was in convincing the jury that the decedent had been

subjected to very poor medical procedures and that perhaps what might have only been moderate wounds under other circumstances became mortal wounds because of doctor or hospital negligence. But whatever the case, that one lives on.

Farley: That seems to ring a bell with me. Yes.

McNulty: Judge, you sat on the Supreme Court on a number of occasions, did you not?

Farley: Yes. I did. In those days, you know it was common practice for trial judges to be called up there, because there were only three judges on the Supreme Court for quite a while before the five-judge court was created and I had, at times, plenty of leisure time to go up there. And I enjoyed it for a while, but it entailed, usually, my writing the opinions when I sat with them. They always farmed out the opinions to the visiting judges. Although we usually agreed beforehand as to what the result would be. But as my tenure ensued, why the volume of work in Nogales increased quite a bit and it became quite an effort for me to take the time off to go up to the Supreme Court and spend the time later on trying to compose the opinion.

McNulty: But you must have had an occasion to get to know some of the supreme court judges. Were there any of them that particularly stood out in your mind?

Farley: Well, yes. I enjoyed going up there. I can't remember who they all were. I remember their faces but I can't recall their names. I recall Judge Phelps. We were talking about him earlier. He was a superior court judge before he ascended to the Supreme Court and I knew him as a superior court judge. And also Judge La Prade. Of course he was also in that same category. He was on the bench later, though, than Phelps was.

McNulty: Justice Stanford? You would have known him from your earlier days.

Farley: Yes. I knew Judge Stanford too. He was a very fine gentleman, but he wasn't much of a student, I didn't think. He had the right instincts I would say, but his opinions sometimes were a little bit questionable by some of the counsel.

McNulty: He was certainly a courtly man.

Farley: Yes, he was. And I had known, you know, some of his sons and his nephew in law school. And also as practicing attorneys in Phoenix.

McNulty: Justice Udall. Did you ever . . .

Farley: Yes. Justice--I knew both Udalls, Levi [S.] and Jesse [A.] Udall.

McNulty: Yes.

Farley: And they were very fine people, I thought. I can see why the Udall name has such prestige in Arizona by

reason of the fact that Levi Udall and Jesse Udall are their antecedents, you know. There are a lot of Udall attorneys now in this state. Of course I'm a tremendous admirer of your former colleague, [Congressman] Mo [Morris K.] Udall. I think he is a prize for Arizona and for the nation at large.

McNulty: Did you ever have him in court before you, that you remember?

Farley: I think he tried some personal injury cases when he was active here in Pima County.

McNulty: Yes.

Farley: I also had Stewart [L.] Udall both in Phoenix and I think he came to Nogales on occasion or two.

McNulty: Judge, in a more philosophical vein, how would you contrast the practice of law in the late 1980's with the practice as you remember it in the early and middle 1930's?

Farley: Well I think it's become so complex nowadays, really. A lawyer is expected to be conversant with so many branches of the law that I'm very pleased that I lived in an era when I didn't have to cope with that, to some extent. We were concerned pretty much with the basic principles of the law, you know. Now you have to be adept at workman's compensation, taxation in all phases, particularly with respect to probate matters, and so many fields that I can't even recall

at the moment.

I'm astounded when I pick up the Bar Journal and find all of these sections that are available to lawyers and how they're now contemplating that they're going to require practicing attorneys to engage in scholarly sessions from time to time in order to retain their right to practice--which I sort of rebel against. It doesn't apply to me because I'm over seventy-five, but I can think of a lot of young lawyers that are in solo practice that will find it very, very difficult to comply with that edict if it is made a rule of the Supreme Court.

McNulty: From a purely social standpoint, is this specialization in the law a good thing for justice, generally speaking?

Farley: I'm uncertain about that, to tell you the truth. I wouldn't want to make a statement that would look ridiculous. I know it's difficult for the lawyers that specialize because if they have to, by chance, come in on a case that they're not familiar with, in their field, they look ridiculous, you know. It seems to me that their sphere of behavior is so limited by reason of their specialization. You know, the lawyers that I always admired could play any base in the infield or the outfield.

McNulty: General practitioners.

Farley: That's right. Yes. That's why I admire some of them that lived in a small community where they had to do that pretty much. You know, they couldn't turn to some young specialist and say, "Here's an estate that I want to handle and you take it over." That, I guess, is a dying breed now. Except for the senior partners in the law firm, perhaps.

McNulty: Yes. That still are allowed to do several different things at once.

Farley: Yes.

McNulty: Judge, over the fifty or sixty years that you've been involved with the law, preparing yourself for the law, do you think there's been a change in the attitude of society toward the law?

Farley: Yes I do. From the standpoint of an attorney, I think so. For this reason: I think that the legal profession hasn't benefited or profited, to my mind, except in a few instances, by the ability of attorneys now to advertise. I'm not sure that that was a good move on the part of the legal profession. I realize that there are pros and cons about that, but I think that the legal profession as such has suffered a degradation in a sense of the reputation that lawyers enjoyed in my experience as a lawyer and as a judge throughout my practice and my tenure as a judge in Arizona. I think that the constant harping on

television, for example, of lawyers that specialize in certain practice may garner them a lot of business, but I think . . .

Tape 2, Side 1

Farley: . . . I think the viewer as a whole probably tends to snort at legal ads, for one thing. I think also that there are some members of our profession that are not too conscious of the ethical proprieties of their service as a lawyer. Word gets around, it seems to me, in those areas, among the populace generally, that is a detriment to our reputation as lawyers. Some of the positions that the organized Bar takes aren't realistic, I don't think. I don't find that so true in the State Bar, but I think in the American Bar Association they come up with some suggestions and propositions that are not in accord with popular ideas at all, even among a lot of lawyers. I think there is quite a bit of dissension that evolves. I was pleased to read though that they did come up with something that I agree with recently. (laughs)

McNulty: What was that?

Farley: I've forgotten now what it was, but I thought, "Well at last they've proposed something that I can go along with here."



McNulty: Judge, what was it like to be a lawyer in the town of Patagonia in 1935 and how would you compare that with the way the public responded to somebody who was a lawyer in Patagonia, say in 1985? Has there been some change . . .

Farley: Well actually not . . .

McNulty: . . . in the public perception?

Farley: Excuse me. Actually I never practiced law in Patagonia per se. I had clients in Patagonia, but I practiced always in Nogales. I would say that people there regarded me as one of the family so to speak and they, because I was a home-town boy, they always admired the fact that I had gone on to law school and passed the bar and that served me in very good stead. Then I practiced a relatively brief period, you know, before I was elevated to the bench, although I had experience as city attorney and also as a member of the House of Representatives. But I would say that generally speaking I enjoyed a certain amount of affection and high regard by the populace generally.

McNulty: Wasn't there a whole lot of prestige, though, to being a lawyer fifty years ago and a lot of public feeling of respect just because a person . . .

Farley: Yes. I noticed that particularly with my boyhood friends even when I encounter one in recent years, you know, they always, I say bow and scrape to me and

I try to put them at ease as quickly as I can. I think they just felt that I was somebody that they knew and had a high regard for. And I tried to minimize my office as much as I could so that they wouldn't feel ill at ease.

McNulty: Is society more lawless today, do you think, than it was fifty years ago?

Farley: Well, from the standpoint of drug usage I think that's the case and the resulting burglaries and whatever that are committed, to that extent, yes. But I think in other respects that people now turn to lawyers more readily than they used to for normal legal questions.

McNulty: Well that brings us into another area we wanted to talk about and that is, the fancy talk is "conflict resolution". I would put that in plain terms as settling quarrels. Do you think people settled quarrels somewhere other than in courts more fifty years ago than they do today?

Farley: Well, I would say that, if I had to make a judgment in that respect, I would say that probably is the case. It seems to me that--of course our communities, even Nogales is expanding daily, you know, and Tucson is phenomenal in its growth. People don't know one another like they do in smaller communities like they used to in Nogales, for

encountered one or two that I questioned his integrity, his ability, but on the whole I think even laymen that are justices of the peace are pretty conscientious. I think this program that the Bar has inaugurated in recent years to have schools for justices of the peace is a very good thing. I know we have a man in Nogales that I'm particularly proud of who is the justice of the peace down there. And the reason I say I'm proud of him is because he worked for me for about twenty years as court interpreter and bailiff . . .

McNulty: This is Albert . . .

Farley: Judge Rios.

McNulty: . . . Rios.

Farley: Albert Rios.

McNulty: Yes.

Farley: He is very conscientious. I served as United States Commissioner for a number of years before they changed the law and Albert used to watch me handle commissioner cases, which are equivalent to the J.P. cases, you know. Then when the law was changed and I resigned--Judge [James A.] Walsh had appointed me to this post down there--I suggested to Judge Walsh that he appoint Albert Rios to succeed me and he did as U. S. Court Commissioner until they put in the requirement that a commissioner had to be a lawyer.

He served, I think, about two or three years in that capacity and became very conversant with federal cases that were either preliminary cases or were the type that the commissioner could render some sort of a judgement in the case.

McNulty: Are there any changes that you think might be wholesome for the justice system generally or the State Bar in particular?

Farley: Well, no. I'm not one to propose a change unless it is something that is of a glaring deficit as far as I'm concerned.

McNulty: On balance then, you think our justice delivery system is doing a reasonably good job and as good a one as it has historically?

Farley: Yes. I think so on the whole. I think this requirement that you must bring an accused before a justice of the peace, forthwith almost is perhaps a good thing. Although I don't think all the justices of the peace in many areas adhere very carefully to that. I know there have been instances that I knew about that I reported to the Supreme Court, where I felt that they should contact the justice of the peace and reprimand them and make sure that they didn't issue orders to detain until they were authorized to do that by having the defendant appear for that purpose. Fixing bail or whatnot. But I

think that's been remedied in the jurisdictions that I found fault with.

McNulty: Does the size of current jury verdicts, which gets a lot of newspaper and magazine attention, is that a thing that is of concern to you or that you think is out of control?

Farley: Oh, you mean in terms of the awards?

McNulty: Yes.

Farley: Oh. Yes. Well, it seems to be commensurate with the cost of living nowadays, you know. I'm still astounded, I told you that my initial salary as city attorney during the Depression era was a hundred dollars and that was a godsend to me. But today a hundred dollars is the minimum fee that most lawyers charge per hour, you know. So these million-dollar verdicts that are commonplace now are maybe deserved. I'm not sure that I can endorse them wholeheartedly but they happen all the time and there must be some basis for that from the standpoint of the cost of living and the extent of the injury and the cost of medical care, which is phenomenal.

McNulty: Has the criminal justice system been tilted unduly in favor of the criminal defendants?

Farley: Well, to a degree I think so. I think there is something to be said that maybe we're too literal-minded in interpreting the rule of laws that applies

example. And there's a tendency, consequently, to dump controversies in the lap of a lawyer and hope the lawyer can resolve it. If he can't why they go to court, but I think there is a trend nowadays to file first and worry afterwards.

McNulty: Are there other places where we could solve problems and arguments and quarrels other than the courts, other than involving the whole justice system?

Farley: No. I think it's so ingrained in our nature as Americans that we're accustomed to this and I think this is a feature that a lawyer serves the populace well in. Because most lawyers are used to making concessions, you know, and I think it's in the innate nature of a lawyer to prefer to settle if he can, if he's a good ethical. If he goes to trial, why I've seen lots of cases settled in the course of a trial.

McNulty: How about the role of churches or fraternal lodges? Were quarrels ever settled in those forums rather than in courts in times past, to any appreciable degree?

Farley: Not that I know of. I never had any knowledge of anything like that at all.

McNulty: Did justices of the peace screen more of these things out fifty years ago than they do today?

Farley: No. I think most justices of the peace were pretty conscientious about their undertaking. I have

in criminal cases. I think that we should try to understand why it's such a complex problem now to get a criminal case to justice in a reasonable period of time. And I think the verdicts the judges are compelled to render are ridiculous, in my point of view, in criminal cases.

McNulty: Are you talking about mandatory . . .

Farley: Yes. Mandatory sentences.

McNulty: Yes.

Farley: I screamed to high heavens when that was first proposed in Arizona because I think it takes away the judicial aspect of a trial. He's sitting up there as a puppet almost, who just has to listen to the trial and then render a verdict in accordance with the edicts of the legislature, the most of whom the members are laymen. They're beginning now to realize what I told anyone who would listen to me years ago, that the jails are going to be full of people and the judicial discretion to render suspended sentences and that sort of thing has been almost eliminated by reason of these mandatory sentences or plea bargains. Even before a case gets to court the judge's hands are tied with plea bargains. So I say that that's a practice that is costing the country a tremendous amount of money and is filling up our prisons to the point where we don't have enough even to house those

that are now sentenced. I found that to be the case while I was still on the bench, you know.

McNulty: And we have federal cases where federal judges are ordering state penitentiaries to discharge prisoners because of over-crowding.

Farley: Yes. That's right. Really I think it's a situation that Arizona ultimately is going to have to face up with by building more prisons if the law remains the same as it is now.

McNulty: Judge, on balance has it been a pretty good fifty-three years for you? Would you do it all over again?

Farley: I probably would. I enjoyed being a judge and I appreciated the confidence that was bestowed in me by the people in Santa Cruz County. When I initially went on the bench I spent a lot of time fretting over judgments that I had to render and lost a great deal of sleep. After the passage of a couple of years, though, I realized that I couldn't continue on that basis and I resolved that I was going to treat each case as a individual case and dispose of it in the manner that I thought was correct. That's what I tried to do and then put it out of my mind after that. That's why my memory to some extent is vague as to a lot of details. I think that I did the right thing in that respect because I tried to give everybody a fair shake and I think the people in



Santa Cruz County felt that I was doing that or they wouldn't have reelected me as many times as they did.

McNulty: Well, I think that's a fair conclusion on your part. As we wind up here, one area that we perhaps should have spoken about earlier is that you, unlike most all the other judges and most of the lawyers, were in a society that was certainly bilingual and perhaps as a child growing up it was an area in which a good deal more Spanish was spoken even than English. Did that ever give you any problems through your professional life?

Farley: No. That was a help to me. My fluency in Spanish of course started when I was just a youngster in Patagonia and most of my playmates were boys of Mexican descent. I had a great curiosity about Spanish anyway. I learned it pretty well as a youngster and then of course I took it in college and in high school too, as well. I found it served me in good stead when I was a practicing attorney, because most of my clients were of Mexican origin and, and of course--well I'll give you a little illustration of that. During my campaign for judge [in 1937], at that time the town of Ruby was booming. There was a lot of activity there at the mine and most of the miners that were employed there were former Patagonians. (laughs) And of course they were young

men I knew and had grown up with, many of them, and I used to go out to Ruby to campaign. It was quite a little trip. It's over forty miles if you take the long route, and the boys out there would have meetings for me and the place is a little community that was overflowing with idleness even in the evenings, you know. So they'd arrange for a meeting in somebody's home or a hall and generally they were all Spanish-speaking and I would address them in Spanish. When the votes were counted in Ruby against poor Judge Thurman I think I beat him something like 520 to, I think he got 125. So it was very gratifying to me that I was able to communicate with my compadres in Patagonia.

McNulty: Did you ever use Spanish actually in the courtroom?

Farley: Oh, yes. On a number of occasions. When I first started coming to Pima County and even in Maricopa County, frequently they only had one interpreter and the interpreter may have been ill or unavailable or he may have been in another courtroom or something like that, you know. I frequently interpreted the proceedings to the litigants from the bench. And I was always treated very kindly for doing that by the participants in the case.

McNulty: So you were simultaneously interpreting and acting as the judge . . .

Farley: Yes.

McNulty: . . . or magistrate in the case. Do you know any other members of the superior court bench in Arizona over the years that had a like skill?

Farley: Well, some of those that are of Hispanic origin, I think, could do it, but I don't know whether they've had occasion. Now the courts, of course, are pretty well-staffed by people of that kind where you have as many divisions as you have in Maricopa and Pima County too.

McNulty: As far as you know, are you the only non-Hispanic judge, though, that had that competency?

Farley: I believe that's probably true. Particularly during my tenure. I always was appreciated too, by the translators that were occupied. They were always very nice to me in expressing their appreciation when I took over for them when they weren't available. Both in Maricopa and here in Tucson. One of them in Tucson in particular was a former Santa Cruz County resident. I don't know whether you ever met him or not. His name was Danny Low.

McNulty: I do know the name.

Farley: Do you? And then I knew the one in Maricopa County too, that, whose name I can't recall. But he was also the law librarian and that's what snarled him up many times. He had to handle the law library and

couldn't get into court.

McNulty: Judge, as we wind up here, is there anything you'd like to say that you'd like your grandson to read twenty-five years from now? (laughter)

Farley: Well, I don't know that--it's kind of you to ask, but I think that there's nothing that I could add to what we've discussed here with any particularity. I'll let him judge by what history relates to him as to my character.

McNulty: Well I think your character is safe, given that yardstick. And we want to thank you for a splendid interview here this afternoon and hope that when we get them all assembled you'd have an opportunity to not only see your own but see some of these others as well.

Farley: Well I thank you very much for asking me. I felt that I could maybe write a book sometime, but I wouldn't be as comprehensive as you've been in your questions and probably not as interesting as you've made me appear. I appreciate that very much.

McNulty: Thank you. That's it. Thank you.

End of interview.

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