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## Interview no. 761

James F. Hulse

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UNIVERSITY OF TEXAS AT EL PASO

INSTITUTE OF ORAL HISTORY

INTERVIEWEE: James F. Hulse (1905- )  
INTERVIEWER: Brenda McDonald  
PROJECT: Class  
DATE OF INTERVIEW: October 27, 28, 1986  
TERMS OF USE: Unrestricted  
  
TAPE NO.: 761  
TRANSCRIPT NO.: 761

BIOGRAPHICAL SYNOPSIS OF INTERVIEWEE:

Born in Paris, Texas; attended the University of Texas where he received his B.A. in 1926 and LL.B. in 1929. Joined El Paso law firm of Turney, Burges, Culwell, and Pollard in 1929 and practiced law with a continuation of that firm until retirement in 1986.

SUMMARY OF INTERVIEW:

Discusses early years of the law firm, in particular cases he handled in the 1930's.

Length of interview: 1 hour, 15 minutes Length of transcript: 32 pages

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Narrator's name: James F. Hulse

Tape Number: 1

Date of Interview: October 27, 1986

Place of Interview: El Paso, Texas

Interviewer's name: Brenda McDonald

For: The University of Texas at El Paso

M: This is an interview with James F. Hulse by Brenda McDonald in El Paso, Texas on October 27, 1986. To begin with, I'd like to get some background information from you. Could you tell me a little bit about yourself?

H: Briefly, I was born in Paris, Arkansas, October 15, 1905. My father was born in Farmersville, Texas. My grandfather and great-grandfather came to Texas in 1853. We moved, when I was three years old, to Beaumont, Texas where I went to school and finished high school there in Beaumont and afterwards attended the University of Texas and received my B.A. degree in 1926 and LL.B. degree in 1929. While at the University of Texas I was fortunate enough among other things to have been on the Texas Law Review and was a quiz master along with the honorary legal fraternity, Phi Delta Phi, and was on the varsity debate squad right (inaudible).

Upon graduation from law school, which occurred on June 3, 1929, I went to Fort Worth and was in the process of getting a foothold on the practice of law there when in late September Dean Hildebrand of the law school called me on the telephone

and said he had a letter from W. H. Burges of El Paso, the law firm of Turney, T-U-R-N-E-Y, Burges, B-U-R-G-E-S, Culwell, C-U-L-W-E-L-L, and Pollard, asking Dean Hildebrand to recommend someone just out of law school to go in their office and he said he wanted to recommend me if I was willing to go--period. I had never been within 600 miles of El Paso and had never heard of Turney, Burges, Culwell, and Pollard, but after listening to Dean Hildebrand strongly recommend to me, I told him all right with the result that I came by train to El Paso, arriving here on October 4, 1929, and started in with Turney, Burges, Culwell and Pollard. Our present office is a continuation of that office.

M: What made you decide to go into law school?

H: Well, as far back as I can remember I always thought I wanted to be a lawyer--so I went to law school.

M: What made you choose U. T. Austin?

H: Well, of course I was reared in Texas and the University of Texas was the great institution of learning, head and shoulders above all others in the state, including the law school. So I attended the University, my--before going to law school--and then went to law school. They had a great school at that time. It wasn't very large compared to now. It had hardly, not quite 350 students and a faculty, I'm not sure of how many, maybe fourteen or fifteen professors--all of whom were really good.

M: Was this the normal way that they would do recruiting-- writing a letter to the Dean, or did they . . . ?

H: Well, the recruiting in those days was very little compared to what they do now. For instance when, the year I was a senior--there were--that I knew of and I guess I knew of all that came--there was one lawyer, a single practitioner from Fort Worth came down there looking for an associate. There was a two-man law firm from San Antonio came up there looking for an associate. And I'm not sure, maybe there were one or two others or not. I know Bill Ryan in our class and I don't think it was by any recruiting that was done there at the University--through some other connection. Bill Ryan went with Baker, Botts in Houston. And I don't remember that anybody else in our class got out and went with any of the better known law firms in the state. Everybody went out on their own to see what they could do and either get a connection after they left law school or opened up their own office somewhere.

M: Did you meet your wife here in El Paso?

H: No. Before I started to law school for two years I taught high school in a little town of Petrolia about sixteen miles from Wichita Falls. And the second year I was out there, why she was out there doing her first year of teaching in the third grade. She was living in Wichita Falls. I met here there in this little town of Petrolia.

M: Can you recall the attitude of the general public towards lawyers during this time?

H: Oh, I don't guess it's changed. You know--it's just like Judge Stapleton who was on the faculty for many years who amongst other things taught civil procedure for years at the law school at the University. He was a great man I thought. And he said one day in class, "You know a lot of the public condemn the lawyers for one thing or another but I've always noticed that when they get in trouble they run to us with a great deal of confidence." (laughter)

M: Okay. Who else was in the firm when you joined in 1929?

H: When I came here I was number six on the list. There was W. W. Turney. Mr. Turney was--the old timers nearly all of them called him Senator. He had been a state senator and was one of the leading citizens in the field of politics, business, law practice, and civic affairs here in El Paso. He was a great leader and great man and very able lawyer.

And there was William H. Burges whose father was a lawyer. Born in--Mr. Burges was born and reared in Seguin, Texas and came to El Paso on account of having had asthma all his life. The climate was good for him. He was one of the most exceptional and unusual scholars both in the field of law and outside of it that I've ever known--and a great man in every respect and an unusually great lawyer.

And then there was A. H. Culwell, not to be confused with Coldwell. It's C-U-L-W-E-L-L. Everybody I knew called him Judge Culwell, although he said he'd never been a judge. (laughter) But he looked like one. And he was one of the great

trial lawyers of the country. He had few equals and no superiors.

He was born and reared in a little crossroads place in Parker County, Texas called Springtown, went to school at Vanderbilt University, came back and started practicing in Weatherford, the county seat of Parker County. The story goes that he filed a suit against the Santa Fe Railroad and that Judge J. W. Terry of Terry, Cavin and Mills, general attorneys in Texas at Galveston--Judge Terry was one of the great many Texans in his day--and he went up there and personally tried that lawsuit. And Mr. Culwell really sort of mopped the floor up with him, won the case, and Judge Terry turned around and hired him to come down and go to work for Terry, Cavin and Mills in Galveston where he tried Santa Fe cases wherever the Santa Fe Railroad ran in Texas for twenty years.

And when Mr. Burges left El Paso and was gone for twenty months as it turned out to Chicago in 1917, Mr. Turney, who was acquainted with Mr. Culwell, got him to come out and go into the firm here. And he was really tremendous. He had a dominating personality in a way. He was great in the court room. He was the only person I think I've ever known that could write an appellate brief, could sit and dictate it to a stenographer and when it came out not have to change a word or punctuation mark or anything. It came out perfect.

And then there was J. Mason Pollard. Mr. Pollard was hard of hearing he said as a result of having served in the field artillery in France during World War I. The French seventy-fives they were shooting off made him deaf. Consequently he wasn't able to do anything in the court because he couldn't



hear well enough. But he was really a great lawyer in the business aspects of things here in the office. Some of them said he could pick an abstract or a title up and sort of smell of it and tell you where the title lay or whatever was wrong with it. Various and sundry legal papers and documents that he wrote were always regarded as being top notch.

One example of this was that the Pioneer Hotel in Tucson had a lot of bonds out that it had issued and defaulted on those bonds in the days of the Depression in the 1930's. And he wrote a bondholders protective agreement that they operated under for a good many years. I understood that lawyers in Arizona and California who saw it made copies of it and used it for a form to go by in similar circumstances. It was almost perfect.

The same was true about Judge Culwell. In the deep depths fo the Depression the First Mortgage Company of St. Louis, Missouri had loans on several buildings with mortgages on them here in El Paso. One of them was what was then known as the Fenschler Building. It's the old building directly across from what was in those days was the front door to the Paso del Norte Hotel there at the corner of San Antonio and South El Paso Street. And the various states including the State of Texas had legislatures that had passed moratorium acts. You couldn't really foreclose on a piece of property you had a mortgage on. And First Mortgage Company sent that down to Mr. Culwell and since it involved citizens of different states--First Mortgage Company being in Missouri--he was entitled to file it in the federal court and did no first and foremost because there was a rule in the

federal court that the Court of Equity as they then had couldn't pay any attention to state statutes even if they wanted to with the result that they were able to go in and foreclose on that old building.

In connection with this Mr. Culwell wrote a set of foreclosure papers which were a little more complicated than in the state court. He had a bill of complaint and summaries and I'm not sure what all else but--he had an order from the court appointed master, and a master to take over the foreclosure proceedings and finally an order of sale and a report back to the court from the master and an order confirming the master to the court and a judgment. He wrote up all this paper and sent the file of them to First Mortgage Company in St. Louis. He got word back from them that they had mimeographed them and sent that set of papers out to their lawyers all over the United States as a form to use them as a perfect set. Attorneys Turney, Burges, Culwell and Pollard were really good and it's hard to really describe them and get the feel of them.

And the fifth lawyer in the office was an associate who graduated from the law school at Austin two years before I did and that was Ralph W. Yarborough. And he stayed here, after I came--he'd been here two years when I came and he stayed here not quite two years longer and was offered a position by Jimmie Allred then Attorney General of the State of Texas. The legislature had just created a new desk in his office for a land lawyer. And there had been some litigation going on out here involving property up the valley--a farm up the valley owned

by Zach T. White in which Mr. Burges and Ralph Yarborough were representing White successfully in the courts. Counsel for the other side was trying to get something passed through the legislature that they thought would help them. Yarborough went down to Austin and made an argument before the committee to which that bill had been referred. The chairman of the committee that same day saw Allred and said, "You got a new desk there for a land lawyer. If you want a good one we just heard a good argument from one, Ralph Yarborough from El Paso." So Allred offered him the position of taking that desk over and he accepted and moved to Austin. That's where he's lived ever since except for the fact that you all know he was for a number of years in the United States Senate.

M: Oh, that the same--

H: Senator Yarborough.

M: Okay. What type of support staff did the firm have at that time?

H: Well they had same as other law offices had at that time. All that they had--there were five lawyers, I was number six. They had--I'm not sure that I can count them accurately. They had I think five--we didn't call them secretaries in those days, they were called stenographers. There were five stenographers, one of whom also doubles as a bookkeeper, and a receptionist. That was it. That took care of the situation.

M: What type of cases did you handle during that time?

H: When I came out here? Well you know you handle whatever type of cases came along. Let me tell you something else first. Amongst the people that I met when I came out here of course were these lawyers that I just mentioned. I met very quickly about 125 lawyers in town. I met all of them in the early stages of my coming here--and of course all of the judges down at the Courthouse. But in addition to that I met a lot of the business and professional people in town. A great many of them were people who were connected with concerns that were clients of our office. And among them the First National Bank was still operating in those days. It was the largest bank here and Frank Murchison was the president of it. He was an A-1 person, business-wise and personally. And he had a man that was--<sup>1</sup> [whose] station [was] as assistant to the president, M. H. Barrough, B-A-R-R-O-U-G-H. He was in my office frequently with loan papers that they wanted filled out and a lot of them were secured by chattel mortgages on farm equipment, everything you loan to farmers and ranchers and so forth other than land. And another one was H. W. Moore who was the trust officer and he was top notch.

Then there was Lee Orndorff who was one of the, probably leading entrepreneur in the city and the real estate, hotel and financial business. His family had built the Orndorff Hotel. When I came here it was the Hussmann Hotel because they had sold it to Mr. Harry Hussmann, the original Harry Hussmann of El Paso. He named it the Hussmann, later named the Cortez which operated as a hotel where the Cortez Building now is. And of course I knew

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<sup>1</sup>There was some difficulty in transcribing the following phrase.

Mr. Hussman himself and he was also a client of the office.

Tom Newman who was--ran the First Mortgage Company. And Matt Murchison who was vice president of the First Mortgage Company but Lee Orndorff had recently started the Mortgage Investment Company and Matt Murchison moved over there and was vice president along with Lee Orndorff at the Mortgage Investment Company which some years later Murchison took over and made a lot of money out of.

There was the Pioneer Abstract Company. There were quite a few people in it I knew quite well but to mention one only there was a man named N. H. Guillot, G-U-I-L-L-O-T, who was born on the Friesian Island right off the coast of Holland and partly been reared with his parents where they had some connection with the Dutch Embassy in St. Petersburg which was then in Russia and was a graduate as an engineer out of one of the German universities. He was really a good title man. He knew those titles here in El Paso inside out and was a A-1 sort of a person.

Amongst others there was Mytril Coblentz who was head of the White House Department Store when it used to be a full department store downtown and for whom I did a lot of work after I came here. W. R. Blair who was head of the Southwest Portland Cement Company. Mr. Warner who st-st-stuttered a little bit and had the Warner Drug Store right across the street from the post office.<sup>2</sup> I remember asking him one time--the store wasn't too big, "How many people work here Mr. Warner?" And he said, "I-I

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<sup>2</sup>Stuttering used by Mr. Hulse as part of the story.

don't know how many work here b-but I pay thirty-two." (laughter)

One of the top business executives I ever knew was R. B. Price of Price's Creameries and Price's Dairies. Mr. Pollard represented them and, through that connection, why it wasn't long before I was representing them and doing a lot of work and continued as long as I practiced law. I came out here in October and it was probably early December--Mr. Pollard walked in my office and threw down on the desk in front of me a Justice Court citation and said, "Here, look after this," and turned around and walked out. And it was a citation against Price's Creameries back in the days when their delivery wagons were drawn by horses. They had a horse kick somebody's automobile fender and resulted in this lawsuit down in the Justice Court.

There was R. G. McIntyre, head of the Business Office and later president of the company that became Standard Oil Company of Texas now called the Chevron. And I wouldn't overlook Mrs. Clardy and Mrs. Allie, A-L-L-I-E, D. Clardy and Mrs. Josephine Fox, her daughter, who had some interesting litigation back in the 1930's.

And talking about these same people and things not long ago with Joe Friedkin who for years had been the American United States Commissioner on the International Boundary Commission here--Joe said, "You remember I was one of those first you met too because I was a runner for the First Mortgage Company and I used to bring abstracts up to your office so you could examine them." I've known Joe for a long, long time of course.

Well--one other person that I saw a lot of because he was ancillary administrator of the Hills Estate which was represented in that connection by Mr. Burges at our office was Otis Coles of the Coles Brothers Real Estate firm. Got to know him quite well shortly after I got here. There were others of course but we won't (inaudible). You asked me about the kind of cases we tried?

M: Yes.

H: Personally the kind of cases that I tried. That first one I had as I said was for Price's Creameries about that horse kicking that fender loose or something on that old Ford automobile. I also had another case with Price's Creameries a year or so later where a Sinclair Oil Company truck had been parked by its driver down in front of what was then the old City Market a block east of the Courthouse--a block or so east of the Courthouse. That was back in the days of the streetcar and as the driver backed his truck out, here came a streetcar and they collided. It knocked the cap off of the spigot to this gasoline truck at the back and the gasoline spilled out and the first thing you knew there was a fire. The truck driver was burned to death trying to put it out. Price's had their downtown delivery wagon and a show team of horses there. The wagon was badly damaged by this fire and the horses were burned so badly they were put out to pasture. The result was that I sued El Paso Electric Company which owned

the streetcar and the Sinclair Oil Company for damages which we figured up to be about \$900.00. And because there were other lawsuits involving a lot more money growing out of that fire than my case, Sinclair sent a lawyer from Fort Worth out here named MacKnight as I remember. He and Allen Grambling represented Sinclair and Harley Brown represented the streetcar people and we tried it way down there in the County Court of Law and got a verdict on the thing. A lot of the case was arguments between the two defendants about which one of them was really responsible for it.

I had a lot--I say a lot because there were quite a good many of them--one or two in the District Court, a few in the County Court of Law, and a lot in the Justice Court--of cases for what was first known as the First Texas Prudential Insurance Company. Later they left off that word "First" and called themselves Texas Prudential Insurance Company of Galveston, Texas. They were like--there were three companies that wrote what we called these industrial insurance policies. There were little weekly pay policies where the salesman went out and sold them then went around every week and collected about fifty cents or something like that. They didn't have a medical examination made which resulted in quite a bit many lawsuits and there were people that came along and said, "Well you wrote insurance for me and I had such and such was wrong with me." And maybe this time in their life insurance policy--by the time we heard about it they'd probably died from heart trouble or



something. And we had--I cut my teeth on knowing life insurance law, trying cases for the Texas Prudential Insurance Company of Galveston, Texas. (laughter)

Of course there was the general run of automobile accident cases. The first thing I knew I was representing several insurance companies, one of which specialized in life, bus and truck insurance. I had cases involving trucks and buses. Another one, the only insurance they had in force here was written on a national basis for people like International Harvester Company and H. S. Spence both of whom had lawsuits around here.

There was quite a mixture of cases. There was, for example, a couple of false imprisonment and malicious prosecution cases. One of them that I sat in it--, sit--, sat in on with Mr. Culwell who really tried it was somebody sued the Railway Express Company for a case at that time.

A little later I was in the District Court--a little later there was one by a woman with a Spanish name who spoke no English against Woolworth's Store. They caught her on a Saturday afternoon doing a little shoplifting. And they had her arrested and she spent I think the weekend in jail. When her case was called Monday, the Woolworth people thought it was called for Tuesday and they didn't show on Monday and the judge dismissed it. She turned around and sued them for wrongful arrest, malicious prosecution, assault and battery, and slander, charging with all these things.

END OF SIDE ONE

## SIDE TWO

The assistant store manager who was a young fellow with a kind of long, narrow face and was blond colored as he could be, was sitting in the back of the courtroom while she was testifying. And so I finally asked her if she could point out--she was telling about all these things the patrón had done, who was the boss--and did she see the patrón anywhere in the room. She looked around all over the room and finally pointed him out and said, "There he is." And everybody pretty nearly fell off their chair. I wanted to be sure she didn't back up on it and I said, "You mean that man right there?" and also pointed and [she said], "Yeah that man right there."

Well, he was smoking a pipe and I finally identified him as being the man with the pipe. "Yeah he was the one who had caused her to be arrested and called her a bunch of names" and he had done this, that and the other. Well he was the furthest man away from her on the jury--one of the jurors. (laughter)

One interesting thing about it was that the jury was out about two hours and brought back a verdict in favor of Woolworth's. But one of the fellows on that jury I saw on the street a couple of weeks later. He said, "You know that lawsuit against Woolworth's? You know after all that was said and done, there were three of those jurors wanting to give that woman something." I said, "No way." (laughter)

END OF TAPE 1

Narrator's Name: James F. Hulse

Tape Number: 2

Date of interview: October 28, 1986

Place of interview: El Paso, Texas

Interviewer's name: Brenda McDonald

For: The University of Texas at El Paso

M: [This is a continuation of the interview] with James F. Hulse. The date of this interview is October 28, 1986. The interviewer is Brenda McDonald. You were going to tell me a little bit about some of the cases that the firm handled in the 1930's.

H: Yes--to mention first a few of the cases to indicate that there was a great variety of them that the firm had as distinguished from those that I personally handled. In 1929 in the case that had just been completed when I came out here was the case of Salvador Ateca who had been the treasurer of the Escobar Revolution in early 1929 in northern Mexico. He had gotten away when the revolution failed with something better than three quarters of a million dollars in cash and negotiable securities and was trying to get to Spain, his native country, and he was arrested in New York. W. H. Fryer who had gone with him as his lawyer was also arrested and called on Mr. Burges for help immediately. He spent a good part of the summer up there getting Ateca out of the toils of the law and on his way back to Spain. It was a most unusual case.

In 1930, Burges had the Tom Love case where Tom Love had both voted for Herbert Hoover, the Republican nominee for President, in 1928 and 1930. Love wanted to be a candidate in the Democratic primary for governor. And the State Democratic Committee wouldn't put him on the ballot because of his defection back in 1928. Love filed a mandamus suit in the Supreme Court. And I think there were six of them--lawyers scattered around--leading lawyers of the state scattered around over the state. One of them included Judge F. A. Williams of Galveston, and one included my friend, Connie Renfro in Dallas amongst others. And they divided up the work of representing the Democratic Committee in that mandamus suit which by the way Tom Love won but then lost the election.

And one other--a most unusual case--were the several banco, B-A-N-C-O, cases involving lands along the Rio Grande River in El Paso and Hudspeth County, Texas, where the river had changed its course from time to time and there were people who were claiming Mexican titles to land that were on the Texas side of the Rio Grande. Mr. Burges had several of those cases. The one I remember most graphically being the one for Mrs. Allie, A-L-L-I-E, D. Clardy and her daughter, Mrs. Josephine Fox, and which cases Burges won them and the Texas title was the one which stood up.

Shortly after that Jimmie Allred was elected Attorney General of Texas and before long had filed an antitrust suit against some ten or twelve of the leading oil companies in the state of Texas including he even sued Standard Oil Company of California which did no business in Texas except through

subsidiaries one of which was the Pasotex Refining Company in El Paso. Burges represented both of those concerns in the Allred antitrust case.

There were also many cases, a good many Santa Fe Railroad cases all of which were handled by Mr. Culwell. There were some insurance cases--life insurance cases based on riders to life insurance policies common back at that time. For a small additional fee they would put a rider on it for \$10.00 payment a month per thousand dollars of insurance in case of total and permanent disability with very restrictive language about what total disability was. The courts had broadened the meaning of those things to where they always got to the jury and the jury usually found for the claimant.

There were other cases involving setoffs and counterclaims made by First National Bank, one in a bankruptcy case and another in a receivership--and so on. It indicates that the nature of the legal practice so far as litigation was concerned was quite varied.

As for the cases that I had in addition to--in addition to those in the Justice Court and the County Court of Law cases and I had a very considerable docket at the time in those courts--in the District Court, in the first district court case that I handled was the First Real Estate and Investment Company v. Jackson which was a suit on a note. I had to foreclose on a chattel mortgage on some woodworking equipment in a plant here in El Paso. We took over the machinery in the plant under a writ of sequestration and Jackson turned around and filed a cross action for wrongful sequestration. We won the case all right. The chief

defense seemed to have been, J. E. Quaid, Q-U-A-I-D, a lawyer who had represented Jackson who was telling the jury that Jackson was a man in his mid-sixties and had real white hair. The argument was that the Good Book says, "A hoary head is a mane of glory." (laughter) But that didn't get him a verdict.

I had a somewhat similar case a year or so later. Atlas Machinery Company had a case against a person who had purchased a tractor on which there was a chattel mortgage. The tractor was sitting out under a tree somewhere not being used but was deteriorating and I filed the same kind of suit. It was a writ of sequestration to take over the tractor and again they filed a cross action for wrongful sequestration. But we won that one also.

The first automobile accident case and one of the first cases that I tried in the District Court was a case of Yanez v. James A. Dick Company, a wholesale grocery house here in El Paso. One of its old trucks had started out slowly into an intersection and scared the driver of an oncoming pickup truck that had a load of people in it. The pickup had taken a quick turn, threw the plaintiff out and broke his hip, and he sued both the owner of the pickup and James A. Dick Company. This was tried in the Forty-first District Court before Judge P. R. Price who was a good judge but sometimes was quick to make off-hand remarks that he later retracted. And I recall in it, number one, that something came out in the testimony one morning that indicated to me that I should file an amendment to my answer. I took it down there at two o'clock and Judge Price was really aggravated about

it and said, "Wanting to alter--This old man got hurt and all you're trying to do is keep from paying him anything," and rah, rah, rah, and finally said, "But go ahead and file it."<sup>1</sup> The trial resulted in a verdict and a judgment against the two defendants for \$2,500.

I ascertained from interviewing the jury that there was jury misconduct in the case and I had a motion for rehearing in which that was--a motion for a new trial in which that was brought up and I brought the jury down there but I made the mistake of not invoking the rule and letting all of them sit in the courtroom. Of course Judge Price was eating up the first one on the stand, "What do you mean by coming in here and trying to overturn the verdict." So the rest of them took--ran for cover and I didn't do any good with it. But I did appeal the case and had one point of error in the charge of the court that Judge Price had given. On a motion for rehearing in the Court for Civil Appeals they reversed the case on that ground. And I can still remember that the morning that they handed that down before I went to the court--as I was going into the courthouse a little after nine o'clock, Mr. Burges was coming out and saw me with a smile on his face and he said, "You got a reversal." (laughter) And sure enough we had got a reversal on a motion for rehearing on the first case that I had the opportunity of appealing.

I had a good many truck and bus cases for the American Fidelity and Casualty Company that specialized in insuring that

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<sup>1</sup>"Rah" meant to indicate that the judge continued complaining.

kind of traffic. I had a number of cases for the Zurich General Accident and Liability Insurance Company Limited, including some automobile accident cases for International Harvester Company and some slip and fall cases for S. H. Kress and Company.

We also had some cases in the office, two of which I tried, Mr. Culwell tried one of them. The man who sued Maytag Company-- he had been a district representative in Gallup, New Mexico and had been discharged from that position and he sued on a personal injury claim in the Federal Court. That's the case Judge Culwell tried and got a verdict. He had one in the County Court of Law about something else that I tried and we got a verdict. Then he had one in the Sixty-fifth District Court about money he claimed was due to him from Maytag growing out of these operations in Gallup. I remember that part of his claim involved overriding royalties on sales made by salemen under--who had previously worked under his direction before he was terminated. But he stayed around for the auditor to come check him out and he was trying to collect the overriding royalty during that period of time. The jury brought in a verdict for the defendant. But there was a man on the jury who was retired. He had been an electrical contractor. I saw him on the street a few days later and he said, "You know some of that jury wanted to give that fellow money on those royalties after he had--on the commissions after he had been fired and I said, 'Look here fellows when I fire a man he's fired,'" and that seemed to have settled that with the jury.

This was during the Depression years and there were three receiverships in town in which I represented the receivers. The



largest one involved Speers Farm of some 5,000 acres in Hudspeth County, near McNary. Speers owed seven hundred thousand dollars on it and the note holders sued on it and had a receiver appointed to operate the farm in the meantime. I represented the receiver who was H. P. Jackson, one time mayor of El Paso. And I might say I cut my eyeteeth on receiverships because there were always kind of questions coming up in it. Between what advice I got from Mr. Culwell who had filed the suit and what I found in High, H-I-G-H, on Receivers, well we made out all right with it. A little later there was another one involving Troy Steam Laundry-- a little later another one involving a piece of property up here where Sol's Barbecue Stand now is--that whole corner up there.

The most--one of the most unusual cases that I handled-- and it was my first experience with the New Deal that came in with the Roosevelt Administration in Washington--was in connection with Mrs. Josephine Fox. She and her mother owned a farm down where the Clardy Fox Addition is now and also extending across what is now known as Alameda Avenue but was then referred to as old, as Highway 80. It extended clear across here over to the old El Paso County Road on the north side.

Something came up about this Triple A Agricultural Adjustment Administration which was limiting cotton farmers and wheat farmers amongst others about what acreage they could plant and so on and so forth in an attempt to reduce surplus crops and raise the price. They were also--the government was also paying them the money and the farm on two different checks. One of them was known as a parity check and the other was the name of which I have now forgotten these farmers received. I noted in the first place--she telephoned

me one day wanting to find out something from the man that was head of the precinct committee under this cotton allotment program. He was a farmer from Ysleta named Frank Bertsch, B-E-R-T-S-C-H. I didn't know him but I phoned his house and found out he was up at the courthouse in El Paso. I went down to see him and when I told him who I was why he started out about coming up to El Paso this morning and when he got up to the Fox Farm he looked to the north side of the road, that was the smaller part of the farm and says, "Can I believe my eyes? That's cotton coming up over there," and he told her she couldn't plant cotton on the north side. She could only plant it on the south side. And I thought, "Well, you know, what is this country come to. You're going to tell her which side of the road she can plant cotton on."

And that wasn't all. Sometime later--during the time that she was running that farm she had small tracts leased out to tenant farmers, fifteen or twenty acres and had a 600 acre farm. And these tenant farmers would not do the work or hire it to be done to do deep plowing, which needed to be done, nor would they keep the irrigation ditches clean which had to be done. Mrs. Fox for those reasons hired that work done, both cleaning the ditches and someone to do the deep plowing in the spring. In order to compensate her for what she paid out on that she had the tenants sign over to her the smaller of those two checks.

One of the tenants got crossways with her and she terminated him and he filed suit against her for the previous check that had been turned over to him in connection with his farming. The suit was in the Justice Court for something like \$175.00. And the

plaintiff's supposed to win in the Justice Court but we tried the case before the jury and won it and he appealed it to the County Court of Law and we tried that there and won it. So he went across the street to the Triple A office and filed a complaint over there and the next thing I knew why here was a hearing officer sent in by the Triple A to have a hearing about it. Mrs. Fox and I and a witness she had went down to the room where this man was going to have the hearing in the basement of the Federal Courthouse. He agreed to hear our witness who was anxious to get away and leave town on a trip--to hear him first and then he said might as well go ahead and take Mrs. Fox's testimony which I did. There were about sixteen or so tenants lined up in the hall outside this room. And the hearing officer then told us that we'd have to get out--that he was going to take testimony of these tenants. I said well we expected to stay in there and hear their testimony and to have the right of cross-examination. He said, "No, the Triple A rule was that when tenants were testifying the landlord and her representatives could not be in the room." And I told him in no uncertain terms that we were not going to leave. He said very quietly, "Well that's the rule and I have no choice. I'll just sit here until you do leave if it takes two or three days." So we finally left. And he entered an order agsinst us of course.

I complained about it to the State Triple A Office at College Station, Texas, and to our congressmen and to our two senators and to the Triple A office in Washington and they finally set it aside and sent somebody else down here to do the same thing all over again except they let us stay in it. But they'd

already decided of course before the hearing was ever held about what they were going to do. It was one of the worst cases of bureaucratic, socialistic performance that I think I've ever saw. . . .

You asked me, just before I started on this about differences between the type of cases that we had back in the Thirties and more recent cases that we handled. I can reply to that by saying that just for general types of cases--maybe I'll add one thing more. I had a contested will case back in the middle Thirties also. A woman came up to see Mr. Turney and he took her--brought her in to see me and she was the beneficiary under her mother's will which had left everything of a very small estate to her and her sisters were contesting it. I tried it before Judge P. R. Price. The sisters claimed both that the mother lacked testamentary capacity and that the will was the result of undue influence. As is typical in cases of that kind they weren't going to find that the old lady didn't know what she was doing in the case of lack of testamentary capacity but they didn't like everything going to one child so they find undue influence. But there wasn't really any evidence of undue influence and I filed a motion for a judgment notwithstanding the verdict. Upon arguing it I saved for the last an opinion in the case of *In re Burns Will*,<sup>2</sup> a case that had been tried in El Paso back somewhere around the turn of the century and in which one of the lawyers for the prevailing party was Judge T. A. Falvey.

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<sup>2</sup>Should be *In re Burns' Estate*, 52 S.W. 98 (Tex. Civ. App.--El Paso 1899)

I knew Judge Price, the judge in the case I was trying, had the greatest of admiration for Judge Falvey. And the case was right on the point about that there was no evidence of undue influence. When I got to it Judge Price said, "Just read me that whole opinion. It's short." And so I read it to him and he entered judgment in favor of my client. During the years after that I had--I don't know how many--seven or eight or so contested will cases. In all of them except one I represented the person wanting to uphold the will. And in one I represented the contestant. Fortunately enough we won all of them.

So far as the types of cases go--we had back in the Thirties, we had for the Santa Fe Railroad--railroad cases, crossing accidents and employee liability cases. And of course we had in later years--we started representing the T & P, now the Missouri Pacific, about 1942 and we've continued to have the same kind of cases for that railroad. Back in those days, the Thirties, we had land title cases including one involving some property down in the Yates Oil Field. The banco cases of course were also land title cases. There was a case going on in the office when I came here--forgotten the plaintiff's name--against Zach T. White involving title to land up the valley in the Frontera Area. And, well we've had land title cases since then from time to time. They don't come along too frequently anymore but I had one in the course for Mrs. Bauer, B-A-U-E-R, a few years back which we won about some land up there on the side of the mountain. And I had another one a half a dozen years ago down at Laredo involving the title to a ranch down there which we won.

We also had in those days foreclosure cases and we still

have foreclosure cases. Back in the Thirties while there were a good many of them that were sold by trustee under a deed of trust--a good many of which I did myself--there were quite a few of them which were foreclosed in court. And we now have a lot of foreclosure cases but they're nearly all handled by a trustee's sale under a deed of trust. Those foreclosure cases back in the Thirties included amongst other things the Pacific National Agricultural Credit Corporation of Oakland, California--had loaned large sums of money upon various ranches in the Trans-Pecos Texas area of Texas, and southern New Mexico and they foreclosed on several of them and Mr. Culwell represented them in those. . . .

There were quite a--several of them down in Fort Stockton. One of those ranchers filed a suit against the Pacific National Credit Corporation. Mr. Culwell wanted to remove it as he was entitled to under the law of the federal court so he sent me down to Fort Stockton--the first time I ever went down there. This was at the first of November, 1932 with the agent here in El Paso for the Pacific National Credit Corporation who was Kenneth Oliver. He was an old time rancher and an old time peace officer from Southern California somewhere and now an agent for this company. And he drove me down to Fort Stockton on a Sunday to present these removal papers to the court at nine o'clock on Monday morning. And I well remember that we stopped for lunch at the old hotel in Van Horn which in those days had an excellent cafe or restaurant, best one between here and Fort Worth. And he said, "Better fill up. It will be the last good meal until you get back here." We got down within about thirty miles of Fort Stockton. He reached

around somewhere and pulled out a six-shooter and laid it down on the seat between us and says, "This is the worst outlaw country left in the United States. There's no telling what'll happen down here." (laughter) We stayed at the old Stockton Hotel which wasn't too good but it wasn't too bad either but like he said the food wasn't anything to brag on.

We got our order entered the next morning at nine o'clock removing that case to the federal court and he wanted to go to San Angelo. We started out on the road that they then took-- it's a little bit different now--to San Angelo and we looked down the road and here, three or four hundred yards, there came a man on a horse back jogging along towards us. He said, "That's old so-an-so. He's the worst outlaw down here. If I don't hire him to look after my cattle, he'll steal all of them." So he pulled up alongside this fellow and hired him right there to look after his cattle. He says, "You know if I hire him he'll be honest and he'll take care of them."

We of course had then as we do now a lot of motor vehicle accident cases. We've had as I've indicated before quite a few life insurance cases, some for that little Texas Prudential Company but others for people like Aetna and so forth. We had-- mostly these total and permanent disability riders on the policies. And we had, of course as I just indicated, contested will cases that I had back then and I've had a good many more since that time. . . .

In addition to having the same kind of cases that we've had, we've had a lot more cases that they didn't have when I first started practicing law. I was asked recently what do I see in

the difference in the practice of law when I started out than the way it is now and my quick answer was, and I still adhere to it, was that in those days this was a free country and it's not anymore.

The kind of cases that we didn't have when I first started out [was] because most of the federal bureaus that we have were created sometime after I started practicing law. And most of the--nearly all of the state boards and commissions were created after I started practicing law. They probably--the state probably didn't have over three or four of them when I started practicing law. Now they've got a good many buildings full of them at Austin. Same way about them in Washington.

And so we've had with the advent of the bureaucratic system of government, number one, we've had the National Labor Relations Board resulting in litigation with them and administratively with them and in connection with unions. The law is still going on. The Wages and Hours Administration was set up and at one time we had quite a bit of work . . .

END OF SIDE ONE

SIDE TWO

The last Wages and Hours case that I tried I guess was several years ago for the Southwestern Portland Cement Company down at Odessa where they have a cement plant. Lumberson v. Southwestern Portland Cement Company which we tried by agreement here in El Paso before the United States District Court here and in which we received a favorable judgment.



There was also the Civil Rights Act of 1964 was passed and there's been a lot of discrimination cases that I've tried and others in our office have tried and a lot of them still pending that goes under that act we did not have before.

There's the state--a good many state statutes particularly like the Deceptive Trade Practices Act cases and here in the office we've had quite a bit many more things depending on it. And then we've also had cases that we didn't use to have that have arisen because of legislative action by the courts which they're not entitled to do which they do and have done all along--called being a activist court. They legislate.

And most particularly, so far as number and importance of cases is concerned, before that all came up we didn't use to have these products liability cases. They were negligence cases. But here in the last twenty years why we've had a lot of these product liability cases and still do.

Well that's about all that I've got jotted down here, Brenda.

M: Could you, before we end, tell me briefly do you feel that the Depression affected El Paso that much and affected the law firm when you were here?

H: The Depression?

M: Did it affect El Paso?

H: Oh sure. I'll tell you about El Paso. I don't know how it would have been otherwise. It seemed like things got around to El Paso later than they got some other places. Whereas the Great Stock Market Crash was in late October, 1929 and a lot of places

felt it immediately, I gather, in El Paso we--things seemed to go along pretty good for awhile. First National Bank was operating in a usual fashion and personally our office was doing a lot of work for them. I did a lot of work for them not only on loan papers and things of that sort but for their trust department in filing applications for letters of administration, letters of guardianship, probating wills or whatever. Also they had a good many garnishment cases where they had a writ of garnishment on the,. I filed answers in those things. And that went along okay.

The first thing that happened though was, there was a common interlocking directorship to a certain extent between the bank and First Mortgage Company. And I was doing a lot of work for the First Mortgage Company. I was examining for evidently-- the biggest and most active in town. I was examining abstracts of title, and writing opinion and loan papers and whatever. And in early 1931, they ran out of money. The word was around that they were in kind of bad shape. They moved their office out of the First National Bank Building to a different location but they folded up.

It was kind of a blow to the town. It sure didn't help the First National Bank any either. On September 4, 1931 while here all of a sudden the First National Bank closed its doors. And you talk about a town being gloomy. The gloom descended immediately. Business was going on in a small way when it went on a big way before. It had a very adverse affect upon El Paso generally and they kind of gradually worked out of it.

It was doing quite a bit better I'd say by the end of that decade, the Thirties. But it lost population and the 1930 census I believe showed something a little over 102,000 and 1940 showed about 98,000 and so forth. So yes there was a very much of an adverse affect.

M: I appreciate your information.

H: Well that's about as much as I know about, Brenda. I'm glad to tell what little bit I know though if you have any other questions, I'll see if I know anything about it.

M: Okay. Thank you.