

INTERVIEWEE: NELSON M. BORTZ

INTERVIEWER: DAVID G. McCOMB

Executive Office Building, Room 121, 2:30 p.m., October 24, 1968

M: First of all, to say something about your biographical background, according to my information, you were born in Pennsylvania, Collegeville?

B: Collegeville, Pennsylvania.

M: In 1908, is that right?

B: 1908. I grew up in the town which at that time was slightly less than a thousand population, I guess. It derives its name from the fact that there is a small liberal arts college there, Ursinus College, which after I graduated from the local high school I attended and got a Bachelor of Science degree in 1930. This, of course, was just the onslaught of the depression, and jobs were scarce.

I had a history professor who was interested in a number of us, and largely through her efforts I went to graduate school the next year at Clark University in Worcester, Massachusetts, and got an M.A. degree there in 1931.

M: What was your major subject?

B: Economics. Political science and economics in undergraduate work, and primarily economics in graduate work. The conditions were still poor as far as job opportunities, so the following year then I attended the Wharton School, graduate school, University of Pennsylvania, with courses in economics and looking toward a Ph.D. degree. And then, of course, one always gets into this problem of circumstance. My general thinking was in the area of teaching--college teaching. I had an opportunity to return

to Penn the following year with a modest fellowship, but I also had an opportunity to return to Worcester to teach at Worcester Polytechnic Institute, an undergraduate engineering college, by virtue of the fact that the instructor was taking a year's leave of absence to get his Ph.D. degree at Harvard. So I elected to teach and acquire that experience, which was for one year, and then I continued some graduate work and primarily developed what I hoped would be my doctor's thesis on the Railway Labor Act.

But then I again had an opportunity to return to Worcester Polytechnic when the head of the department took a leave to complete a very painstaking work on the United States Senate, in which he had been engaged for years. So I taught again there and then shortly afterwards had the opportunity to teach at the University of North Dakota in the School of Commerce, which I did.

Meanwhile, I had taken several Civil Service examinations and--

M: By this point in time, it's what--1935?

B: 1935, yes. And while I was teaching at the University of North Dakota, I received a telegram from the Bureau of Labor Statistics of the U. S. Department of Labor inquiring as to whether I was available as a statistical clerk, CAF-2, \$1440 per year. This was in the spring of 1935. I replied indicating that I was committed out at Grand Forks, North Dakota, until June, and then I subsequently received a second telegram asking me to report to the BLS at the end of June 1935, which I did. I had no other teaching appointments at the time. However, while I was in the Bureau of Labor Statistics (this was early August 1935) I got a telegram from the Dean of the School of Commerce inquiring whether I would return. The man whose place I had taken there had been given another year's leave; he was, I believe, NRA administrator in the State of Wisconsin.

So I went around to our personnel officer and discussed the telegram with him, and I said in effect this: "If it's a choice between my continuing to grind out statistics on a hand Marchant Calculator or return to the wilds of North Dakota," much as I was not intrigued with North Dakota, "I feel that I'm not getting much out of this, and I don't think the Bureau is getting a great deal out of me."

Well, he was a good personnel officer and said, "Now, don't be hasty; I think we're going to have a professional opening come up within the next several weeks."

It did. I was named to it, and so my career in the United States government was dated from June 1935.

M: What was this opening; what position was this?

B: It was economist and editor, really a combination. Miss Perkins had the belief that the Department of Labor should publish a very simply-written type of monthly magazine that primarily would be directed at workers, union people, and to describe what was going on. There was, of course, a tremendous surge of legislation. It was the summer of the Social Security Act, summer of the Wagner Act, and a whole variety of activity. So for the next six or seven years, I was associated with that effort which really was very good in the sense that it was not a confining sort of job, but it permitted contacts with key people in a number of the New Deal agencies to get material to write a story explaining the Rural Electrification Program, the Resettlement Program, and things of that sort.

Of course, when World War II came along, there was the need to reduce the number of publications. This publication was not eliminated, as I recall, at that time, but it was reduced. Meanwhile, there were other things to do and what ultimately developed was that I went over to the

National Mediation Board with Dr. William Leiserson, who was one of the outstanding labor mediators and administrators that the government had at this period.

M: This was 1943 or so?

B: This was 1943, yes. And there was the Wage Stabilization Program and Wage and Price Controls and so on. My background, which I did not mention, is a railroad family. My father was a railroad worker all his life, my brother the same, so that I had a natural interest, as well as what developed to be a professional interest, in collective bargaining and labor relations on the railroads. So these meshed, as I say, in a period there which I served technically. It was a wartime agency, the National Railway Labor Panel, which President Roosevelt established by Executive Order.

That then was concluded in early 1946. I returned to the BLS and remained in various, largely administrative posts, in the area of industrial relations and wages for about the next ten years, going over to the Bureau of Labor Standards which Miss Perkins had established in 1933, again primarily as an effort to bring the federal government and the activities of the federal government closer to the states, and particularly the Labor Departments in the states. She herself, coming from New York as Industrial Commissioner of the state when Roosevelt appointed her, felt the need for a closer federal-state relationship. She established what has been known over the years as the Bureau of Labor Standards. Its primary function for many years (and is still certainly one of the major functions) was to encourage the adoption [movement] of state labor legislation in such areas as minimum wages, child labor, industrial occupational safety, and things of this sort.

It was while I was in the Labor Standards Bureau that the Welfare and

Pension Plan and Disclosure Act of 1958 was passed. Secretary Mitchell determined that our bureau, the Bureau of Labor Standards, should administer this new piece of legislation. So I became involved in that as part of the task force and then as Associate Director of the Bureau of Labor Standards in getting this piece of legislation implemented operationally. The next year we had the Landrum-Griffin Reporting and Disclosure Act, and I was then placed in charge of a task force to develop the procedures of the organization for administering the Landrum-Griffin Act.

M: What kind of troubles did you have with that? That was pretty controversial.

B: It was controversial. We had difficulties of two sorts, I guess. Certainly one of the largest was staffing, staffing the new organization. We had developed plans. We had developed quite a good, certainly a reasonable, reporting mechanism--questionnaires. This was done in discussions with interested parties. President Meany of AFL-CIO set up a committee which met with the Secretary and which met with us in working out what would be reasonable.

M: Did labor oppose you in this organization?

B: No.

M: The labor people cooperated?

B: The labor people cooperated. They were not happy, obviously, over the legislation, but their spirit was one of cooperation.

M: Once it had passed, implemented, they cooperated?

B: And, I think, one of the reasons was that Secretary Mitchell had a good working relationship with the labor organizations. He had their confidence and respect. They would not necessarily always agree with him, but he certainly had their confidence.

M: Was this act in the organization set up as a direct result of the racketeering that came in the previous year?

B: It stemmed from the McClellan hearings and earlier hearings which also dealt with misuse of welfare and pension funds. And in the legislative process in 1957-1958-1959, these two measures got separated. The welfare and pension one, where there had been some abuses and misuse of funds, was separated from the total package so to speak and that was enacted by the Congress, as I say, in 1958; and then the following year, the remainder of the package in a sense, the Landrum-Griffin Act, was enacted.

Shortly after the law became effective and for the first four months, I guess it was, from approximately September to the end of the year, I was the de facto administrator of the law. They were searching for a director or head. The Assistant Secretary Jack [John J.] Gilhooly was my immediate superior and with whom I had an excellent working relationship. Several times he said, "Nelson, you know, if it wouldn't be political, you know who we would want to head it." My registered politics is Democratic, I don't mind mentioning it, and this was no factor whatever in Secretary Mitchell appointing me then as Deputy Assistant Secretary to the Labor Management Relations under Gilhooly.

So I was appointed to the job (staff job) as deputy, which was part of Mitchell's concept that for every policy official in the department there should be a career deputy, and I fit that category. So I remained Deputy Assistant Secretary for the Mitchell administration. Secretary Goldberg came in, then to be followed with Secretary Wirtz. And I continued as deputy to--well, Jim Reynolds was the man who became the Assistant Secretary under the Goldberg-Kennedy Administration. So I was his deputy until 1964 and one of the finest, most considerate men that we have in the federal service is the now Under Secretary. I had been Deputy Associate Director of the Bureau of Labor Standards, and in 1964, the

Director retired, and I had indicated an interest to return to a line job. I felt that I would like to round out my career in a sense by directing an operation. So that was, I think, the principal motivation for returning as Director of the Bureau of Labor Standards in the summer of 1964, which position I was then in until I retired December 30, 1967.

I'm sure that I have taken too much time for just this background.

M: No, this is a good background. I'm interested in some of the events that occurred during your long tenure with the Department of Labor. I might mention some of these. You may not have had any direct connection, or you may have some opinion on them. If so, I would be happy for you to comment. Going way back, did you have anything to do with the Fair Labor Standards Act back in 1938?

B: No. I, of course, was--

M: You were the editor then?

B: I was in the Bureau of Labor Statistics, and I recall very clearly the passage of the law and then setting up the Wage and Hour Division under Elmer Andrews. I think he was the first appointee. I suppose my closest contacts in the pre-World War II period were probably through my union activities, I mean at this juncture 1936 until World War II and then went over to the National Mediation Board. I was reasonably active in the Federal Workers' Union. First, we were a local in the American Federation of Government Employees and then when the CIO was formed, we decided to affiliate with the United Federal Workers in the CIO. And during this period, there were these sort of contacts with staff employees in the wage-hour unit, as a new unit, as well as throughout the department.

M: What attracted you to the CIO, this Federal Workers Union?

B: Primarily because the AFGE and the Labor Department local was made up of

conservative, older people, a number of whom were in positions of authority--supervisors and high supervisors--which ran counter to the contemporary 1930 concept of what a union should consist of and who should be members of the union.

As a matter of fact, I mean I could talk for three hours on this part, which is not the main concern of yours, but it was a fascinating period for this reason among others--that we had reflected within the Labor Department some of the Communist activities which did permeate the federal structure in the 1930's. It was a revelation in a sense to see the change in attitudes of federal workers, professional people as well as clerical people, come Pearl Harbor. For example, I had headed at this particular juncture right before Pearl Harbor, what we called a Committee for Union Democracy. They had nominated me for president of the local. The chap who was running against me was not a Communist, but he unfortunately was being used. Pearl Harbor came. I had a call the next day. "Could I have lunch--this is serious." Their proposal was to join forces because of the Pearl Harbor situation which we refused to do.

M: Let me clarify this. You had a telephone call from a Communist representative?

B: Yes.

M: And they wanted you to join ranks with them?

B: Join ranks with them. They were willing to withdraw their candidate and that I would become the only candidate for president. I forget what all the elements in the proposition were, but essentially, as I say, to get associated with the fellows in the "white hat," if I can use a current expression.

Well, as I say, I don't want to digress on that. It's quite a long history, and it's extremely interesting.

M: Let me ask a little bit more about that. That's kind of intriguing. You say the attitude of the federal workers, at least in the Department of Labor, shifted with the coming of Pearl Harbor.

B: The attitude of these leaders who dominated the majority group in our union--I mean, the Labor Department was not a hot-bed of Communism. Let me say that. Let me make it clear, but we did have some Communist sympathizers, and this evolved in a period earlier, 1941, with a dismissal by Secretary Perkins of a professional worker who had been our president and who had been, in terms of union affairs, a close associate--not only of me but quite a number of the others obviously. And this developed through this individual asking other labor department individuals--both of these were women by the way--whether she would be interested and would she join the Communist Party? This other woman was completely surprised and taken aback by this, and it got out, and the FBI investigated, and this person said, "Well, I'm not going to tell an untruth to the FBI. If they put this question to me, I will have to say what she asked me to do," and I agreed with her. I said, "I think you have to, also."

So there was, as I say, this dismissal which created quite a trial, and procedural hassles, and what not--a substantial amount of publicity in the local papers and things of this sort, and it was well known at the time.

M: Well now, did this kill off Communist sympathizers in the department?

B: It did not do that completely. The next event of significance was the German invasion of Russia, and I can recall a union meeting practically across the street from here (we used to meet right on 17th Street) in which the Communist line at the time was, "This is an imperialistic war, and the United States cannot get involved."

After the invasion of Germany into Russia these same people got up at the next meeting and some of them, literally with tears in their eyes, said that this was a holy war now, and that the United States must get in and support Russia in terms of resisting the German invasion. So it was a remarkable shift. Some of these people that stood up there and said that later were in the military service, and some of them returned; one unhappily, I think, was killed in action; but in terms of Communist influence in government labor organizations, the war period just erased it.

M: Well, now Russia was our ally during that war. Why would it erase at that period?

B: Well, Russia--I would have to review my history. The invasion by Hitler of Russia, going on into Russian soil, was a marked change in the sense of what the attitude of American Communists were toward the war. I'm a little hazy as to all the gyrations in the party line during this period. But this definitely was quite a shift in the attitude.

M: To go back a little bit, did you have any connection with John L. Lewis?

B: Well, Lewis at this time was the head of the CIO and personally I did not have, no.

M: You didn't have occasion to meet with him or confer with him?

B: No.

M: Well, to carry it on into the war period, you went to the Mediation Board. Did you have anything to do at that time, 1943 to 1946, with the settlement of labor disputes such as the train strike in 1946?

B: Yes, I was involved in a series of events during that period. I was transferred over to the Mediation Board in March of 1943, I believe it was. Dr. Leiserson told me at the time--he said, "Well, now, we have two national railroad cases which are coming up. In fact, one is under way in

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Chicago. I have appointed a board, and I think you should go out there and help them. They need an economist and you can also serve as sort of their executive secretary."

So I was with the emergency board which considered the non-operating railroad wage case. And during the midst of the board's consideration hearings, the government, through I guess Byrnes (Jimmy Byrnes, the Stabilization Administrator) issued a hold-the-line or freeze order which restricted still further the amount of pay increase that would be permissible under the wartime stabilization regulations.

The board made a recommendation, the chairman of the board was Dr. Sharfman, a transportation professor at the University of Michigan, and a very experienced, knowledgeable man. The board submitted its report, Dr. Leiserson felt that it was a sound recommendation, and sent it on to the Office of Economic Stabilization (Byrnes' office). About this time I think too, possibly, Byrnes may have gone on into something else and Vinson became the stabilization head. In any event under the rules which controlled, the recommendations of the emergency board would be final unless they were vetoed or changed by the Stabilization Director within thirty days.

Meanwhile, the Operating Brotherhoods of the Train and Engine Service Organizations had their national case get started in New York, and I then went to New York to work with that board throughout the summer of 1943. But on the twenty-ninth day, while the hearings on the operating case in New York were in progress, the word came that Vinson--I think it was Vinson at this point--had disallowed the emergency board's recommendation. This threw consternation in the hearings in New York in that emergency board which was headed by another fine gentleman, Judge Walter P. Stacy of the Supreme Court of North Carolina. Stacy had a typical and a judicial mind and called for a recess to get what the party line was on this.

So the board recessed for several weeks or more. Meanwhile, I proceeded with the analysis of the case. The duties had been split in the drafting of a report. Ultimately in September that board made its report. It was quite interesting. The three men on the board were Judge Stacy, Sharfman who had been chairman of the non-operating board, and an arbitrator, a New York lawyer, by the name of Frank Swacker. Swacker was strongly in favor of giving the Operating Brotherhoods at least the 8 cents which the nonops had originally been awarded. Sharfman was in a quandary. He felt on the one hand that he was correct and he had justification for the 8 cents, which had been overruled; on the other hand under the little steel formula, only 4 cents was the permissible amount. The judge, desirous of getting a resolution of the controversy and avoiding a strike but nonetheless schooled in the thinking that these are the laws, these are the rules by which we have to make our determination. So the result was 4 cents. And this in turn gave rise, I guess, to the question you had in the back of your mind about the seizure of the railroads at the end of the year and the threat to strike which Roosevelt arbitrated, but which took some further pressure before the organizations were satisfied.

This so disheartened Leiserson that early the next year he resigned and retired. He felt that the government had unduly interfered and disrupted an orderly pattern of labor relations on the railroads. And I think he had some merit to his conclusion, because the ultimate settlement was for a larger amount than the 8 cents which had been originally recommended. But it was through some of the, some would call it, "tortured reasoning," which went into settling the stabilization matters. Some of the employees were relatively low-paid, and there was a special rule under the wage stabilization rules for adjustments that were substandard, I think the term was.

M: Well, this was all background then to the Smith-Connally Anti-Strike Act of 1943? Is that right?

B: Yes, although the Smith-Connally Act was not generated, as I recall it, by the railroad problem, but by the John L. Lewis problems. And it was aimed at Lewis.

But then in 1946 and again in 1950, when I was back with the Department of Labor, I was asked to work with emergency boards in national wage dispute cases there. And the 1946 situation was the famous one in which Truman came before Congress and asked for emergency legislation in the two-day strike there. And in 1950 it resolved in government taking over the railroads for, I guess, a period of about twenty-seven months--early Korea.

M: Were you in on the negotiations with the railroads in 1946?

B: Only in the sense that I was working with the emergency board which President Truman had appointed, and the board had some mediation sessions with the parties to see if they could reach some agreement. As I recall, there were three disputes running concurrently in Chicago, and the board had only one part of the total picture, you see. And so they were constraining to make the recommendation which we did, and the national sort of pattern which evolved out of steel, I think, primarily was 18 cents an hour. And the railroad unions would not accept anything less. It went up, as I recall, to 18 cents an hour in terms of the settlement.

M: President Truman was called down by the Supreme Court on that railroad issue, was he not?

B: I think it was steel. I think it was the steel seizure in 1950 or 1951 in which he used the Taft-Hartley Law and the Supreme Court--or the lower court and the Supreme Court, I guess, may have confirmed it--held that there was no national emergency, so that in that sense Truman was rebuffed.

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M: In that issue?

B: Yes.

M: Did you have anything to do with that steel strike?

B: No.

M: Did you have anything to do with the formulation of the Taft-Hartley Act?

B: No. I was in what we had as industrial relations of the Bureau of Labor Statistics at that time, and we developed a variety of materials, analyses of collective bargaining contracts, strikes and things of that sort. But in any policy formulation sense, the answer is no.

M: Did you have anything to do with the steel strike in 1959?

B: No. I followed it closely, but not in an intimate sense.

M: Following this same line of steel, did you have anything to do with the confrontation with the steel people under Kennedy or Johnson?

B: Not in a policy sense. I remember going down with, I guess, Goldberg or Wirtz for a briefing of congressmen and their AA's [administrative assistants] on what the issues were on this, but I had no direct connection.

M: You had no personal insight.

B: No, no.

M: Have you had any close contact with Lyndon Johnson in this period, either in Congress, Senate, or as President?

B: No, I really have not had.

M: You haven't been called to the White House for meetings or consultations?

B: Not that involved President Johnson. When President Kennedy was here, he set up a President's Committee on Youth Employment with which I was quite active and which involved some meetings with President Kennedy at the White House.

I might say parenthetically, and this may or may not be accurate or

true--I of course have no real basis to judge it. But it has been my experience, and I think my observation, that as the years have worn on and particularly the last possibly three or four years, there appears to have been an increasing reluctance on the part of the principal policy offices of our department to have others accompany them to meetings at the White House. I recall remarks several times to the effect that people over there don't want a large number and they are somewhat sensitive about those who may have really responsible positions but who are not political in the political sense in which you consider a Presidential appointee. So that there is--I have sensed, and I think observed too, there were many fewer occasions when someone who had been a career employee but who had moved into a position such as I had, either staff or line, of their accompanying their policy officer to the White House.

M: What's the reason for this phenomenon?

B: One of them, I think, was a fear maybe in experience of leaks, a feeling which well--they weren't sure they could trust the individual.

M: The fewer people in on the meeting, the fewer people who could talk?

B: Yes. I think, at least in the experience insofar as I have any ability to judge it, this has been more typical, as I say, in the late years of the 1960's than in the earlier years of the decade.

M: Conversely, has President Johnson made any concerted or studied attempt to encourage the civil servants working in the Executive Branch in any unusual fashion? Has he called people over for receptions, attended awards banquets, things of that nature?

B: I think this is one of the anomalies of the Johnson Administration that you undoubtedly are far more aware of at this time and will be than what I am or ever could be. But I think it is one of the curious anomalies

that on the one hand the President has done as much, and perhaps more, for federal workers than any President I can think of.

M: This in the sense of wages?

B: In the sense of wages and in the sense of employee improvements, fringe benefits, and I think to a substantial degree career recognition and appointment. I don't think the Johnson Administration can be faulted on lifting, picking, selecting, appointing what are career employees and giving them jobs of responsibility.

M: Is he unusual in this, in the Presidents that you have been connected with?

B: Well, I think you'd have to score him better than average.

M: Okay. In this same line of thought, is the current President, President Johnson, unusual in any of his management techniques?

B: Definitely yes, and here I think I could not credit him with the same high marks that I just did with reference to civil service personnel. I think that he was sold a bill of goods by the Budget Bureau and the Department of Defense in terms of some of the budget management planning methods that he ordered instituted in government agencies.

M: I don't understand this. Can you explain--?

B: Well, McNamara, of course, became famous for his interjecting good management, "tight management," into the Department of Defense, which he undoubtedly did.

M: Saving money and cutting out--?

B: A cost effectiveness concept and so on. And this in general parlance is program, budget, management system. PBMS, at least this is what we call it. And as I say, McNamara apparently convinced the President that this was just the medicine for the whole federal establishment. And the Budget Bureau either got the order, or the Budget Bureau concurred with McNamara.

The directives flowed out that all the departments should adopt this system with which many of us had a great deal of difficulty because we were not dealing with the number of tanks and ships and bombs being built and used and becoming obsolescent. We were talking about people and law and enforcing minimum wage law or enforcing a safety law, trying to improve the condition of migratory agricultural workers. And to attempt to straight-jacket some of these programs into the concepts and the rules which applied in the Department of Defense simply didn't translate effectively in my judgment into a social agency that was dealing with people, 80 percent of whose budget dealt with enforcing or working with people, training programs and enforcing laws and so on. So that this developed a good many problems, in my judgment, terrifically costly in the sense of the amount of staff time that had to be consumed in trying to rejigger and retaylor your budgetary and programming approaches and to come out with proof for what the cost effectiveness would be for, let's say, spending \$250,000 to try to improve the conditions of migratory workers as against some of the more tangible types of operations--do you build a thousand more airplanes or do you not? And then it may be--

M: Are you suggesting that some of the programs, like migratory workers, you could not--?

B: You can't put them on a cost effectiveness basis. The Budget Bureau would say, "Well, suppose we give you a hundred thousand or allow you a hundred thousand or five hundred thousand dollars? How can you show us the nature of the result, and how can you translate that into dollars or something of that sort?" These are matters--social matters, evolution of legislation and enforcement in the states and what not.

So that, as I say, I think there were some difficulties of that sort.

And then McNamara could come over to the President with an array of statistics showing that he had saved three-and-a-half million dollars in eliminating some gimmick on the N-2 rifle or the Z-10 tank. Well, sure, obviously, and this became a plus-cost effectiveness item. And then all the other departments were told, "See what McNamara has done. Now I want to get from you similar reports." My own personal feeling is that there was more "pulling the wool over the eyes," so to speak. A lot of these savings were pretty thin, really, in terms of (a) it might have been done in any event, or (b) it was taking the money out of this pocket that was being used for something else.

In any event, I just mention this as one example of this type of matter.

M: So the management techniques of President Johnson were perhaps not as well thought out for all departments as they might have been?

B: This is my feeling. I have the feeling, I have no direct basis on which to make a judgment so I probably shouldn't say anything at all, but my feeling is that there was more insistence in getting a result than there was recognition of the administrative problems and the supervisory or personnel techniques in the matter in which you motivate and get your subordinates to do what you want done.

M: This suggests that he was not able to motivate his subordinates as he should have--is that what you're saying, or is this what you mean?

B: This is a long distance view, and it may be completely erroneous except I have this impression, and I know that the present Secretary of Labor pursued a somewhat similar course. Whether it was contagious or not, I'm not in a position to judge.

M: Did the President's so-called "War on Poverty" have any effect on your work?

B: Yes, it did. It was marginal, because as you know, new agencies, the Office of Economic Opportunity, were established to carry it out. But in the early stages, we contributed staff in the staffing and early programs of OEO in certain areas, migratory labor being one of those areas.

M: Did you have anything to do with the formulation of migratory labor legislation?

B: Not at this--no, no.

M: How about manpower development training and the amendments of it?

B: I did not get involved in that. Only at the early stages when the Area Redevelopment Act was passed. This was one of the early Kennedy measures which preceded the several others. I was involved in that as the departmental representative on an interagency policy group meeting with the administrator of ARA; and then as I mentioned earlier, President Kennedy set up a President's Committee on Youth Employment. Both of these were early stages in what then evolved a year or two later as the Manpower Development Training Act. But my whole background has not been in the employment and manpower area, and so I was in different program activities in the department.

M: Did the Civil Rights Act of 1964 with its regulations on discrimination in employment and so forth, did that have any effect on your job?

B: No, not really. Again this was not a major labor department item. There were certain areas dealing with the employment of women, the women's protective labor laws.

M: How about the amendment to the Fair Labor Standards Act in 1966, again dealing with discrimination?

B: No. We made, as a bureau, we made certain studies of what state laws were

in the area of discrimination and in employment, but in terms of a direct administrative or policy sense, no.

M: Do you have any feelings or were you involved in the drive to eliminate Section 14B of the National Labor Relations Act?

B: No, no. I am familiar with the history of it, but this has been, I think, pretty much of a top political item. It's not an involved item. It's either the case of do you agree with it or not? And typically, it has been one which probably in the Department of Labor the Secretary and his solicitor and possibly one or two others would make whatever decisions that--

M: And this didn't filter down?

B: Didn't filter down, no.

M: How about the Davis-Baker Act Amendments in 1964 that brought fringe benefits in?

B: No direct involvement. Here again, I'm familiar with the history of Davis-Baker over the years, and some of the difficulties and what the problems are politically and pragmatically, but in the sense of having any insights, I couldn't claim any.

M: How about the Service Contract Act of 1965?

B: Well, you're getting a little closer there, not in the sense in which I am sure you're asking the question. But in the Service Contracts Act, as well as in several other laws which were passed about the same time, the Secretary of Labor was authorized to establish occupational safety regulations for the protection of workers who are employed on government contracts. And the Secretary consolidated in my bureau in 1966, I guess, the safety functions which up until that time had been performed by the Wage and Hour Division, so that you had a functional division. My division

dealt with the public contract safety, the newly enacted service contract safety, the development of safety regulations, and the inspection of plants for compliance with the regulations, which up until that time had been, as I say, a part of the Wage and Hour and Public Contracts Division. So in that sense, the Service Contract Act, the amendments to the Fair Labor Standards Act, which included some amendments on bringing agricultural youth under the hazardous occupation orders called for by the Fair Labor Standards Act. These were some of the activities which I was directly involved and my bureau was involved in developing during this past two years.

M: Was there any great trouble in this development? Did you get any opposition?

B: In terms of the agricultural safety order, there was some opposition from some groups of farmers, ranchers in Texas, ranchers in Wyoming, a few other groups, largely because they had had a distorted, and I think deliberately distorted, picture drawn for them as to what the law and the Secretary's regulations actually meant. And this reflected itself in some Congressional interest and concern, but not really--not, I would say, extremely serious. There was one agricultural equipment company whose representative made himself particularly obnoxious in terms of fighting the proposals. Actually, I think this is one of the really constructive steps that we've taken in this field, and I was delighted that this job was completed before I retired at the end of the year.

M: Was it your job then to sell this idea to the farmers who were opposing it or enforce it, or what?

B: To enforce it primarily; to develop the standards. Let me put it this way--to develop the standards and then since this could be coupled with the wage hours inspection of compliance with hours and wages, they would make the inspections in the farms in this instance.

M: Would you explain to me the problems involved in setting up these standards? You have the responsibility to do this?

B: Right.

M: Now, my understanding is that Congress through the law will give you a general authority, but that you have to work out the details. Now how do you do this, and what are the problems involved?

B: If I may, let me take as an illustration since we're on the subject of the agricultural hazardous occupation order for youth under sixteen. The Fair Labor Standards Act, enacted in 1938, has a section which says that the Secretary of Labor is authorized and responsible for developing and enforcing standards which will protect the safety and the health of youth under the age of eighteen. Under the 1938 requirement, the department and the Bureau of Labor Standards has developed and issued some seventeen orders. For example, youth under eighteen are not permitted to engage in mining operations, to work where radiation dangers are severe, logging and sawmill operations, where, on the basis of the knowledge in the statistical indices, the exposure and the likelihood of serious injury or death is relatively high. In the 1966 amendments, the Congress added agriculture to the law and that the Secretary of Labor should promulgate regulations assuring the safety and health of youth employed in agriculture, not the family relationship in the father-son, but where they are employed, under the age of sixteen, not eighteen, which was the standard in the industrial. After this amendment was passed, our bureau's role was to develop the type of standard. And let me give you the stages of this as I recall them quite briefly.

It was about this time of year in October, each year in late October, that there is a congress of safety in Chicago sponsored by the National

Safety Council at which ten or twelve thousand safety engineers and management and labor organizations (those who have a professional and responsible interest in safety) convene each year. One of the units is the Farm Safety Council. So I arranged to speak at a meeting of the Farm Safety Council to just indicate to them that Congress had passed this law, and it was now the responsibility of the Secretary of Labor and in turn our responsibility in our bureau to develop a standard. Now this was a new area. We had no familiarity with agriculture in any sense such as we had had with the textile mills or steel mills and so on. I indicated that we would invite and need their assistance along with the assistance of other groups.

About three weeks later I invited some twenty to twenty-five people, some from the Farm Safety Council, some from other safety organizations, from farm groups--the Grange and leading farm organizations, to come in and sit down with us and to help identify activities they would consider to be particularly hazardous for youth. Most of them came in, and we had a productive session. This was not for the record or what not, anyone could speak their piece, but simply to identify in terms of tractors, in terms of large bailers, tractor machinery, in terms of post-diggers, saws--power saws--fertilizers and chemicals, and ladders, what have you.

M: Did you identify these in terms of jobs?

B: Identified, yes, in terms of primarily jobs and farm activities.

M: Would there be degrees of unsafe jobs, such as one job being more hazardous than another, for instance?

B: Yes. There is, and there was. For example, cultivating or planting seeds doesn't have the same hazards as the large reaper and, you know, the machines for harvesting.

Well, we got this sort of identification. These, in our judgment, are some of the hazards. We then had our own group, the agricultural department people, and we developed a tentative draft identifying a number of farm jobs which, on the basis of this preliminary information, we felt might be unduly hazardous. This draft then was sent out to about two hundred or so farm organizations, safety organizations, interested parties throughout the country. We got their comments; we had a review of these comments, a redraft of the first draft, and this was then published in the Federal Register for comment. And we subsequently had a public hearing at which people testified on this, after which there were further changes made, some additional consultations and checks with groups like the 4-H people and--

M: Did you have the hearings here in Washington?

B: Yes, we had the hearings here in Washington. And then the promulgation of the regulations--

M: Did you invite people to come to the hearings, or did they write to you and say that they would like to speak, or how was that handled?

B: There was no attempt, in the sense of invitation that I recall--

M: There was just an open hearing then?

B: Open hearing. The notice in the Federal Register. We sent letters to all those who had submitted earlier comments. We sent them the revised proposal and the notices of public hearings, and then we left it in their judgment and interest as to whether they were sufficiently interested, motivated, or concerned to appear at the public hearing.

So that we had a process of consultations, circulation, recirculation of draft proposals, public hearings, and then the issuance of the regulation.

And this is the way in which it should be. I had another experience--

M: Let me ask this. What do you do if a standard has to be revised? Do you have a whole other hearing or--?

B: If a standard needs to be revised--I have to give you a qualified answer on this, because contrary to my recommendations and my strong feelings, certain revisions in the child-labor order were made without any public hearing. There was substantial protest, justifiably in my judgment, and the policy now is and was reaffirmed by the Secretary of Labor that there would be public hearings in many changes in the orders.

M: You were about to give me another example.

B: Well, essentially the same procedure we followed, the Bureau has followed throughout the years in the development of safety regulations. There are two industries which are under federal law, at least portions of them, longshoring and shipbuilding. And you get into maritime law and federal waters and so on. So for more than ten years, this evolved the same time incidentally in the same year as the welfare and pension legislation and our bureau had two new laws to tool up for and to enforce in one year. The bureau has enforced and made inspections of safety according to regulations in longshoring and shipbuilding, and throughout this period we have always, before any change in the regulations, we acquire a year or two to experience. We find that perhaps some new developments have occurred--containerization for example--and some areas of the regulation are not complete, or they are not clear.

The technical staff will develop a series of points and proposals which they feel are required to update and strengthen the regulations. This we will send out and sit down and discuss with the union-interested groups and the management-interested groups, and we may do this two times, make two rounds of it, if there are some serious problems. And then it

will be published with a notice for public hearing. And we have found that, although this takes longer in reaching your goal of a sound regulation, actually you have brought the parties along with you and they have understood the reasons for these changes; and you have gained acceptance in your goal of enforcement through the process. If you take the arbitrary approach which sometimes happens (it happens when there really is no dire emergency which calls for this sort of action) you build up this resistance. The "Feds" are out to get you on whatever basis, whatever merit it may be. You haven't taken the opportunity to explain and to break down the resistance basically through understanding and the element of confidence.

M: Well, I have no more questions.

B: I have one more thing which you haven't touched on, and--

M: Good, bring it up.

B: This relates to President Johnson's "Mission Safety 70" program. You may not have heard of it at all, but this is a program which I developed and which the President accepted. The office of the director of Labor Standards has also typically been the chairman of the Federal Safety Council. The Federal Safety Council has been established by Executive Order, renewed periodically by the President for the purpose of coordinating and strengthening and emphasizing employee safety in the federal government. So that, as I say, I was chairman of the Federal Safety Council which is composed of about a dozen or fifteen representatives from mostly the major larger federal agencies--their safety engineer or perhaps their personnel officer or top management individual--someone who is responsible either in a technical or policy administrative sense for employee safety within the industry. Unless you get into the glamorous Ralph Nader automobile safety, safety is not one which you can get people stirred up over, unfortunately, except

right after a catastrophe and everyone is for it. Well, we were in a period in which things were not moving too excitedly, and I developed the idea in terms of the President setting a goal for the improvement of safety reduction injuries, which are quite costly, in the federal service over a period of time. 1970 sort of came out as the period of time to which there then got attached Mission Safety '70. And we developed, as I say, a package on this which included the reasons for the action, a letter from the President to each federal agency triggering it off, a new executive order on employee safety--Executive Order 10,990, I guess it was.

In any event Secretary Wirtz felt this was a good idea, and he sent it over to the White House. The President accepted it and, to the best of my knowledge, he did it knowingly and I think with some real interest. Then we established several firsts here in this. There was this direct presidential interest; there was a memorandum which went to every agency head from the President and which said, "I want you to tell me within ninety days what you have done this past year and what you intend to do this year with respect to the protection and safeguarding the safety and health of your employees."

These reports came in and then it was our function to review them and develop a report, which we did, which then went back as a report of the Secretary to the President on "Mission Safety '70." The anniversary of the President's issuance, which was February 16, we got another package together with another memorandum to the head of every agency from the President saying, "I want to know what you have done this past year. Give me your answers on these things."

And this was repeated each year. Now I have to confess we had increasing difficulty in getting the dates, getting the staff over here, to get the

thing so that we would hit the anniversary date. We got the Post Office Department to have a special cancellation stamp, which they use every February, "Cancel out Accidents," or something of this sort. And they were using that in sixty major post offices.

Well, there are a number of things, but then we have a Presidential Safety Award.

M: This is part of your program?

B: This has been in the program for years, the Safety Award, the President's Safety Award, which is made each year to the agencies which have made the most improvement. And this we have tried to have as a Rose Garden affair; it's typically in June when we get this information and know who the winners are each year and so on. And of course this runs into scheduling difficulties. In 1964 Johnson did it. In 1965 we got tangled up with the astronauts. It was scheduled and he invited them in. Actually the two could have been backed together. It was 11:30 for the astronauts and 12 or 12:30 for this. And I think it would have been wonderful to have the astronauts and another manifestation of safety go along concurrently, but this opportunity got lost out. And so ultimately the Vice President did it, and the next year the Vice President was requested to do it by the President. So he has, and you can say understandably with much more serious things--not taken--well, no.

A year ago, he did make the presentations. But either he or the staff, one never knows who makes these decisions in the mechanics, decided it would be in the Cabinet room and that attendance would be strictly limited. So all that we had were the agency heads who received the awards, Wirtz and myself and my executive secretary on the council, and that was it, which was unfortunate because in things of this sort, the greater the

prominence you can give to it by having the safety people get to the White House, the Rose Garden once a year, the greater is the morale lift. The President is concerned; we get into the White House once a year because we're working on employee safety, you see, and you lose that when it gets buried in a small room and becomes just a mechanistic presentation.

M: Has your Mission 70 program been successful?

B: I can't speak in terms of where it stands today. It was successful in that two years in a row the injury frequency rate in the federal service declined to new lows. And so it is clear, and I am confident that the fact that Mission Safety '70 was launched by the President and the emphasis that he was willing to give to it, whatever mechanism it was given, had a good effect. But the problem is trying to keep these things going and with all the other pressures, this one just doesn't get all the priorities that those who are wrapped up into it feel that it should have, you see. But I did want to mention Mission Safety '70, because as I say, this is one where the President has been directly involved, and we used one of the quotes, the number of accidents and the cost of injuries must be reduced again and again and again on a huge poster with the President's picture and so on which was posted and distributed throughout the federal government. And then we had another one later on.

M: Very good. Well, I wish to thank you for coming down here to the office, taking your time to do that, and giving a fine interview.

B: I enjoyed it.

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By Nelson M. Bortz

to the

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