INTERVIEW I

DATE: October 18, 1968

INTERVIEWEE: SHELDON S. COHEN

INTERVIEWER: David C. McComb

PLACE: Internal Revenue Service Building, Washington, D. C.

Tape 1 of 3

C: I never kept a diary before in my life, but on the day that Kennedy was shot, I started keeping notes on various things that occurred. It never will be published. The trouble is that the things that happen here you can never tell most of the time.

M: Some time in the far distant future--

C: When we're all dead, maybe somebody will want to.

M: Will it to George Washington University or some place of your choice where it will be preserved.

C: I had it in mind, or send it to the Johnson Library after everybody is dead.

M: These things are just invaluable.

C: Many of the things you see, a lot of the notes in there refer to tax cases that I just want to remember if somebody called me about something. It's not disclosable. By law I can't disclose it.

M: But things like diaries are priceless.

C: Do you know Ralph Newman?

M: No.

C: Well, Ralph Newman is the cataloger of the President's papers. I recommended him for the President. Ralph has already made me aware of that.

M: According to my data, you were born in Washington, D.C., in 1927 and educated at George Washington University with an A.B. degree in 1950 and a law degree in 1952. What law degree did you--

C: J.D.

M: That's a what?

C: Jurist Doctor.

M: Jurist Doctor. You were in the navy from 1945 to 1946. After finishing your degree in 1950 at George Washington, you went to work as an accountant, is that right?

C: Yes, part time.

M: While you were going to law school, I see. Passed your bar in 1952 as a tax lawyer.

C: That's my specialty, but when you pass the bar, you pass the bar.

M: You then worked from 1952 to 1956 as a legislative attorney for the Internal Revenue Service. Is that correct?

C: Yes, writing legislation, technical stuff, and regulations on legislation.

M: From 1956 to 1960, you were a member of the law firm of Stevenson, Paul, Rifkind, Wharton & Garrison?

C: Associate, that's right.

M: And then following that, from 1960 to 1964, you were associated with Arnold, Fortas and Porter as a partner. You were a partner of that firm. And then, in 1964 you were chief

counsel for the Internal Revenue Service until 1965, and then commissioner from 1965 to the present.

C: That's right.

M: Is that substantially true?

C: The sole distinction that I can claim to life is that I think I am the longest-lived of any Johnson appointee.

M: Well, that may be a distinction of sorts.

C: I think it is. Somebody told me that maybe Joe Barr was appointed about the same time I was, but I was appointed on about the twentieth of December of 1963. There were a number of people who were appointed at or about the same time, but they've all gone.

M: When you were a legislative attorney, that was from 1952 to 1956, you were drafting legislation?

C: Yes. I came in right out of law school. I graduated from summer school--I went summers and winters because I had missed a year and a half out of the navy, and I got married my first year of law school, and I wanted to get finished as quickly as possible since my wife was supporting me and in the manner in which we both liked to be a little better accustomed. And so, I finished, I guess, in September of 1952, and I had taken my bar in June. They let me take the bar because I only had one semester to go and because I was a veteran. They were giving leeway to veterans then, because I wanted to take the CPA [Certified Public Accountant] in November and I didn't want to have to take both at the same time. The bar was given in November and the CPA in November and I couldn't take them both in the same month. That would have killed me, and so I took the bar in

June and graduated in September.

At that time, they really weren't doing much hiring. It was sort of the tail-end of the Truman Administration, but I had a pretty good record, and they hired me, and I came to work the first week in November.

M: Was there any significant piece of legislation that you worked on that you recall?

C: I guess I was a green kid. The first job I had was probably the best education I ever had. There had been no recodification of income tax regulations since 1941. They had gotten tied up during the war, but they normally did this periodically. But they had gotten tied up during the war, and they hadn't done it, and after the war there was a pretty good frenzy going on. Then came on the Korean situation, and so it was 1952, and they had not recodified regulations or brought them up to date since, as I say, 1941 was the last set. I was assigned to a group--there were three of us--whose job it was to bring up the whole of the income tax regulations up to date. In doing that, for a young fellow like myself, it was a tremendous education, because you had to read every section of the law and every section of the regulations and figure out which ones were obsolete, had been repealed, or superseded. For example, where tax rates had changed and examples were in the code and the regulations, they had to be updated to include the new rates of tax perhaps. So it required a complete reading of every section of the regulations and every section of the code at least twice between the three of us. We would proofread with each other to make sure we didn't miss anything, so we all, in effect, had to participate. It was about a year's project.

M: That must have been an education in itself.

C: It was a tremendous education. And the next major project I got into was the recodification of the whole code. The Republicans had come in in 1953, and we redrafted the whole of the Internal Revenue Codes. My office mate, the same fellow who had worked with me on the regulations project, was assigned to rearrange and tighten up the structure of the substantive provision of the law, and I was assigned to rearrange and tighten up the administrative provision of the law. Then they were parceled out to the groups. There were about twenty-five or thirty of us working in the project, from the Treasury and from the congressional committees and IRS here. And we worked in sort of task groups, you know, a lawyer and an accountant, somebody from the administration, maybe somebody from the Hill.

And that was a major project. I drafted, for example, myself the most expensive provisions of the code, the accelerated depreciation revisions of 1954.

M: Did you have to work any with members of the Congress?

C: Mostly with congressional committees, with the Ways and Means Committee staff, the Finance Committee staff, the Joint Committee on Internal Revenue's Taxation staff. I attended the executive sessions of the Ways and Means Committee; the Finance Committee I didn't get much into. I participated to that extent, but I didn't associate with the members of the committee.

I was a Grade 7 or a Grade 9 at the time.

M: Do you recall anything about an attempt led by Sam Rayburn for a tax cut in 1955 which failed? It failed in the Senate.

C: Yes, well, when the Republicans first came in in 1953, the first thing they did was cut

taxes 10 per cent. They just arbitrarily cut taxes 10 per cent. This was in 1953. And then they had to rearrange the Code in 1954. And I remember vaguely that there were rumblings, but since I was working for the administration, and the administration was not Democratic at the time, that would have been handled by the staffs on the Hill. Although technically we would have supplied some manpower to draft. We always did, but there aren't enough technicians on the Hill, and they aren't really good enough. And therefore, we take their policy direction and provide the technical skill.

It's an interesting thing about tax legislation. It's always drafted over here. Either here or Treasury, and the bulk of it here. Because it's so damned technical that whatever the policy makers want--they know what they want--but somebody has to put it in the right language and has to make sure it doesn't leak in areas that you don't want it to leak to. So I'm sure somebody here did, but I didn't have anything to do with it. Well, I never went to a political rally before in my life before I came into office, and I think I've only been to one or two since. I've stayed out of politics.

M: Well, why did you leave your work in the Internal Revenue Service?

C: In 1956 I was under heavy pressure because my wife's an asthmatic, and we had substantial medical bills. We were also having fertility problems. We had been married, by that time, for four years--five years, I think a total of five years--and we hadn't had a child, and we were running substantial medical bills in that area. I had gone to the boss, my immediate boss, and asked if I could teach. I had been promised a job at G.W. [George Washington University] in the undergraduate school, teaching accounting. I had wanted to pick up the subject unrelated to my work, my work being tax law. So I thought

I might teach accounting, because that wouldn't conflict. I didn't have to take any tax positions. And G.W. would have hired me, and I would have been able to make about a thousand dollars, and that would have kept me.

There was a rule at the time, the then-acting chief counsel was a rather straight-laced individual who was still here when I got here, and I managed to do something about that. One of the first things I did was to change the rule. It was a general rule in the Revenue Service that you couldn't engage in outside activities that potentially would conflict with your work. But he even went further than that. He said you couldn't engage in anything, including teaching. And I asked for permission, and it went to the chief counsel's office, and the then-acting Chief Counsel [Rudy P.] Hertzog turned me down, although my boss, the head of my division, had approved it and the assistant chief counsel, technical, who is now the tax court judge, he had approved it. It was turned down. And I said, well, the only alternative I had was to find a job that paid more because I needed the money.

And then I let it be known to several friends of mine that if anybody knew anything about a job, I'd be interested. I didn't really go looking, but it wasn't too long before--

M: Then you began work in the law firm?

C: Yes. Salaries in those days were kind of funny. I think I was Grade 12, and I was making $7500, and I got a big increase to $9500, which sounds pretty piddling today. It was a lot of money then, a big difference. A huge percentage of my income. And that was the way I left.

M: Now, I want to pick up when you came back and your relationship with Lyndon Johnson.

C: I did work with [Adlai?] Stevenson. I predate Mr. Stevenson in the firm. The firm was Paul, Weiss, Rifkind, Wharton and Garrison at the time.

I came to it in an interesting way. My roommate, former roommate in the government that I had roomed with, named Leonard Raum, was out in private life at the time. He was, I think, the tax man here for an accounting firm. And Leonard was standing on the street corner waiting for a bus one day, and one of the partners of the Paul firm came riding down and picked him up and indicated to him that he was in need of a young lawyer. Leonard indicated that he had once roomed with me, and he thought I was reasonably competent. The same week this partner in the Paul, Weiss and Garrison firm, a fellow named Louis Eisenstein whose book [*Ideologies of Taxation*] is right here, one of the best known tax theoreticians in the country, had lunch with another friend of mine and indicated he was looking for a young lawyer. And this fellow told him about me, and so he got in touch with me, and that's how I was introduced to the firm.

The lunch I had with Eisenstein was attended also by Carolyn Agger, her last name is Fortas, who was also a partner in that firm. I had never met her, but I knew Eisenstein, and I knew of him. He was a well-known man. He was about my current age at the time. And any young lawyer who had any ambition at all would have given his right arm to work with Eisenstein. He had worked with [Randolph] Paul, and Paul had been the dean of really modern taxation. He had been the kind of guy who died on the stand testifying for tax reform before the Joint Committee on Internal Revenue Taxation. He had his heart attack right while he was sitting there. And Eisenstein had been his

protégé. And so I wanted very much [the job]. And, in fact, I took that job at a thousand dollars less than several other offers I had, because I wanted to work with him.

Stevenson came in a few months later right after the elections and joined the firm. It's a New York firm principally, but they had a small Washington office of about four or five people. And Stevenson kept his Chicago arrangement, but we kept an office for him here in Washington. When he had problems here in Washington, I took care of them.

M: So you worked with Stevenson on occasion?

C: Yes. For example, in the Defense Education Act of 1958, Stevenson lobbied very heavily in favor of the act, and I did all of the staff work for his papers, prepared his briefings, attended the committee meetings, and helped him with various testimony.

M: Did you have any impressions about Stevenson?

C: Newt Minow was working on that bill. Bill Blair was working on that at the same time. The three of us were every day out in Chicago to meet him. They were senior. Do I have any impressions? He was one of the sweetest human beings that you ever knew. There was no pomposity. He never took himself seriously. And I don't mean that in the derogatory sense. I mean that he was never overly impressed with his own importance. He worked at each thing like it was an important problem and that he ought to bring as much work and intellect as he could to it, and he was willing to take anybody's ideas. But the final product was a laborious effort on his own part. I remember sitting with him on a Saturday afternoon, and nobody else was around, not even a secretary, and he'd scrawl out a speech in longhand. Basically the notes--he was just diddling with it, and this was Saturday afternoon, and he was going to give it Saturday night. I guess a month

or two before he died, I saw him at a cabinet meeting.

As a matter of fact, I have a little note that he wrote me that he wanted to see me afterwards, and he scribbled to me on the little note and passed it across the table. For some reason or other, I kept it. I usually threw those things away. I told Faye the other night how many notes that Abe Fortas gave me that I just chucked. Or maybe even some of President Johnson's when he was a senator, I may have chucked. I don't know.

M: Did Stevenson's public wit extend into his private life?

C: Yes, he was rather shy really. He was not a pusher. I can remember specifically one instance which serves as an illustration of his character. I guess it was either Bill Blair or Newt Minow, I can't remember right now, planned a cocktail party for some members of the House--I think it was the House Education and Labor Committee--because we were trying to get this Defense Education Act. This was right after Sputnik. And it was thrown at Florence Mahoney's house over in Georgetown. And Faye and I were there, and the Governor [Stevenson] was there, I believe Newt and Bill Blair were there and many of the members, at least the Democratic members of the committee. And here he was supposed to be entertaining these fellows, extolling the virtues of the Defense Education Act. And for most of the evening he and my wife sat in the corner comparing notes. He had a grandchild. We had, by then, produced our first offspring. And he was comparing the grandchild, who was about the same age, with my oldest child. And they sat there comparing pictures. And every time somebody would walk into the room Bill Blair or Newt Minow would run over and say, "Governor, I want you to come over here," and he'd go over and talk to whoever it was and then go back and talk to Faye. Here we

were, the least important people in the room, and he spent the most time with Faye and me, which I think is illustrative. The testimony he gave, I think, was one of the important elements in pushing the thing across. Not that there weren't lots of other pressures; there were. But it was a sort of catalytic thing that he brought to bear on it.

M: Did he ever say anything to you about his election defeats?

C: No, he didn't really talk about them much to me. It seemed to me he took them pretty philosophically. In terms of action of the government, he used to get a little upset that more things weren't being done in the international area in education. Some of the things that he got interested in in the campaign. In that context, yes. But I never really heard him grouse about it. "If I'd done this, or if somebody had helped me, I might have made it," or you know, "If there hadn't been certain splits . . ." Of course, I wasn't that intimate with him. Bill Blair or Newt Minow might have gotten that, but he wasn't that often in Washington, maybe four or five days a month, and I wouldn't be with him every minute. A lot of these things he didn't need me for. With my importance, I was just a little, you know--I was the lowest ranking staff guy around here. He happened to like me so he happened to use me.

M: Let me ask about Lyndon Johnson now. When did you first run into him?

C: I guess the first time I ever met the President he was majority leader. I met him at Thurman Arnold's seventieth birthday party for one thing. He came--he didn't stay. He came with Mrs. Johnson and shook hands with everybody. I guess I had met him before that. Miss Agger, as we call her--you know, she has two personalities. One is from nine till five-thirty, and the second one is from five-thirty afterwards. She really is two

separate people. She dresses differently in the two roles, and she talks differently in the two roles; she acts differently in the two roles. She's a fine, hard-driving lawyer during the day, and one of her problems is she tries to outdo men in a man's world, and she has a tendency to be somewhat gruff for that reason.

M: Then what happens to her at night?

C: She takes off the suit and she puts on a dress and becomes a very feminine woman, who is a very gracious hostess and a fine entertainer and loses all of that attempt to beat a man at a man's game. One of the things she, I suppose, and part of this ought to relate to her because of her relationships between her and Abe and the President, I remember when I was being interviewed at that first luncheon, she asked me if I would mind taking orders from a woman. In other words, she was very self-conscious about being a woman in a man's world.

M: Which luncheon is this?

C: This was the first luncheon when I was being interviewed for the job in 1956.

M: When you were leaving the service?

C: Yes. She asked me whether I would mind taking orders from a woman, and I looked at her, and I said not if I had respect for her ability. I guess that was the right answer. I was hired.

But I guess she, from time to time, I guess Abe from time to time, did some legal work for the President or for Mrs. Johnson, I think there's a distinction that most people overlook. The LBJ Company was Mrs. Johnson's, to the best of my knowledge. And always whenever I had a discussion about what was going to happen to the LBJ

Company, the principal discussions were with Mrs. Johnson. He might sometimes be interested in expressing an opinion, but generally the real business discussions were with Mrs. Johnson and Walter [Jenkins], who was the treasurer of the company. This is public record. Anybody can see it. Walter was the treasurer of what was then the LBJ Company. It changed names several times. It once was known as the Johnson City--I don't know, call letters [KTBC], and then it was called--I can't remember what its name is today. Its name today is the same as its name was when it was first acquired, and then in between there it was called the LBJ Company.

M: Let me interject a question. There is some opinion that Mrs. Johnson is a superb business woman.

C: She's great.

M: Your relationship here might verify that.

C: I've always said that if President Johnson wasn't the most able person for the presidency, then Mrs. Johnson was.

M: There's no question--

C: There's no question in my mind that she is as bright and able a businesswoman as I've ever met, very discerning and very capable of making her own decisions.

M: She's the one that ran that radio station?

C: Best of my knowledge. Whenever I had detailed discussions, they were with her. He might be interested in what's happening overall, but that I suspect is natural. The family's principal asset is there, and the trust for the children that is going to hopefully support the children and grandchildren are tied up with that, so I suspect that if I had that kind of

arrangement, I'd be interested in what happened there, too.

The principal business discussions, any business discussions I ever had were with Mrs. Johnson. And the only time, I guess, I ever went up to see the President, then Senator, was not to see the Senator, but to get some papers from Walter because he was the treasurer of the company. Incidentally, Walter introduced me to then-Senator Johnson and who I'm sure, if he had ever met me on the street after that, would not have known me from Adam, because it was just, you know, "Sheldon, I want you to meet Senator Johnson," and that was it. Although I met Mr. Jenkins on a number of occasions in a business way--

M: So then your first connection with President Johnson was through the law work, legal work.

C: That's right. The President, and, I suspect, LBJ Company or whatever it was called at the time, like most businesses of consequence, used a lot of lawyers. I can't say that Carol or Abe Fortas were the principal lawyers in all the business deals. They were not. And, in fact, our kind of firm really didn't handle day-to-day business activities. We sort of existed in specialized problems. There was still a split here. I was still with Paul-Weiss at the time. Arnold and Porter did not have a tax department, and they, in effect, retained the tax people at Paul-Weiss and later Stevenson-Paul, as it became known, to handle their tax work, any tax work that came in. And the first time I got involved with LBJ Company was when, I guess, I got a call from Carol and said that Abe had been asked by the President, then Senator, for some advice on a corporate reorganization the LBJ Company was acquiring, another station, in which it already had an interest, but they

were going to go through a reorganization. And a local lawyer down in Texas had given an opinion, and evidently, Walter Jenkins and Mrs. Johnson had felt a little queasy about taking their advice; they didn't feel they were expert enough because it was a serious step and wanted to know what Carol thought. And Carol asked me to go up and get the papers from Mr. Jenkins.

M: Let me ask this now. Who is Carol?

C: Carolyn Fortas. Carolyn Agger as her professional--

M: I want to be sure this is straight.

C: Yes. So I went up to see Mr. Jenkins, the first time I had ever met him, although I think perhaps once or twice before, Carol had asked me about something that she was doing or thinking about for Mrs. Johnson. This was the first time I had ever met Walter Jenkins. He gave me the balance sheets of the LBJ Company, and he gave me the financial statements of the company that they were interested in acquiring, and he gave me the facts surrounding the interests that they held at the time. And he also, I think, gave me an opinion that had been drafted by another law firm. Then I went off back to the office and started doing some analyses of the figures and checking out the law and devising the plan that would best accomplish what they wanted to do. And I consulted with Mrs. Fortas--well, Miss Agger; I'll use her professional name because this is a professional capacity. And you use two different names with her, too. If it's during the day, you call her Miss Agger, and if it's at night, you call her Mrs. Fortas. I call her Carol.

M: Well, you had a sort of continuing business relationship--

C: I would guess, I'm trying to guess now, I can't remember and don't have access to the

firm records, and I wouldn't want them. So I guess this was around 1958.

M: This also ties you in with the Fortas law firm.

C: Well, as I indicated, the Paul-Weiss firm did the tax work for the Fortas firm, so I periodically did some work for the Fortas firm, not for Fortas himself at that early stage, but for other partners in the firm, and for other clients of the firm.

And I devised a plan that was somewhat different than previously had been advised by others, and Carol approved it. She thought that it was good. It was unique; it was kind of an interesting way to do something. For lack of a better word, I hope it was original. And it would acquire the company; it would carry over certain corporate attributes, and it would maintain control the way they wanted. It would accomplish just about everything they wanted, and I disagreed with certain advice that was previously given.

Mrs. Johnson came into Carol's office to discuss the plan. I think Walter was with her. And we went over it in great detail. This is where you are, here's where you've been, here's where you would like to go, and here's the way we think you ought to go to get there. And eventually, I think we contacted the firm down in Texas who did their local work, because we weren't going to do the job. We were just planning it, and the local law firm went ahead.

M: Did you get to know Walter Jenkins well?

C: Yes. He was the man who knew the financial affairs. He was the treasurer of the company. And I got to deal with him not really closely at the time, but later on as other things came up. After that they evidently were pleased with the way it worked out--

M: Were you impressed with Jenkins' executive ability?

C: He had tremendous capacity. He was a good accountant. I think his basic degree is in accounting, and he had an excellent business head. He had a fine business head. He knew people, and I thought he was a fine executive. That was really my first intensive contact, and as I say throughout this whole transaction, I met the Senator for one fleeting instance as Walter and I walked past his office on the way to Walter's office, and Walter introduced me, "Senator Johnson, this is Sheldon Cohen," and we shook hands. And I never spoke to him once about the transaction.

M: All right. How did you come back to the Internal Revenue Service?

C: Well, you see, there's a way to go here. Then in 1960, May of 1960 or a little before May of 1960, Carol Agger and Louis Eisenstein decided--Stevenson not having gone back to the government yet, he was still in the firm--decided that they would take their practice and move over to the Arnold, Fortas and Porter firm. They were doing all the tax work for the Arnold, Fortas and Porter firm who had had no tax people. Paul had died in 1956. About the time I was being hired, Paul died. And he had been the close contact with the New York office. This was just sort of an outpost otherwise with Paul being the tie, and they were not completely happy with the way things were working out with the New York office. It's hard to be partners with people who are 250 miles away and whom you don't see on a regular basis. And the practices were drifting apart anyway. And Louis came to me, and he said that he liked to practice as a whole lawyer and not as a piece of a lawyer. Just doing tax work as we were doing was not being a whole lawyer and weren't in the whole transaction--he was going to move, and he'd like me to move with him. And

he told the others that were working there at the time. I had a very fine offer from the New York firm to either go to New York with them or stay, but I decided that I liked him, and I liked her and perhaps this was my best opportunity, and I went to the Arnold, Fortas and Porter firm. I sort of analyzed it the same way, that I wouldn't have any power with the firm; I'd just be an outpost. I wouldn't have my own practice. I was still pretty young, and I had a fine relationship with these two people, and I would move over. So I moved over, and then I'll skip a lot of intervening history because it's really not significant.

I saw Mrs. Johnson from time to time. Again, she knew who I was, but I don't think there was any special relationship or friendliness, other than the fact that she's a very friendly person. In any event, I did see Walter once in a while to discuss a business problem, but rarely. We weren't social friends or close in any way.

And I guess that gets us up to the shot heard around the world on November 22 [1963]. It's fairly fresh in my mind, and I made a few notes at the time, so--

M: Now, you were appointed shortly after that in December?

C: It was a very intensive period of relationship that builds up over that period of time, I suspect, that has something to do with all of this. The first person that the President called on landing at Andrews Air Force Base, I understand, and you'll be able to verify this better than I, was Abe Fortas. He may have been one of the first persons he called from Dallas, but I don't know that for a fact. I do know that as soon as he landed, he did call Abe.

Well, let me back up a minute, I was sitting in my office when the shooting

occurred. Abe came running by my office--my office was at the front of the building--he was looking for Carol. He had heard the first report, and one of the first reports, as you will recall, was that the President and the Vice President had both been shot and were dead or dying. And he was terribly distraught, and he was looking for Carol, and I told him where she was, because we were in a separate building from his. His building was across the street; we had two buildings across the street from one another. And I told him where she was, and he went and found her. By that time, we heard a report that the President was shot and dying, and the Vice President was wounded, modified down somewhat, and by the time, I think, he left the building, he told me that the Vice President was all right; it was Governor [John] Connally that was wounded, and the President was in bad shape. He left. I didn't see him any more for awhile.

And I worked through the day and went home early, and it was a Friday night. And I go to services most every Friday night, not always, but generally. And I figured this was the night I ought to go. And it was close to eight o'clock.

M: When you say services, you mean the synagogue?

C: The synagogue. And it was close to eight o'clock. Fortas called me and asked if I could be at his house as soon as possible. Actually, I think it was Carol that called me. I have some notes, but I'm pretty sure it was her--as soon as possible they wanted to discuss the President's personal affairs. He wanted to make sure his personal affairs were in order and would not interfere with anything he might have to do as President. And I said yes, I would be there. I had my coat--it was lucky--I was about to--I was halfway out of the door when the phone call came.

M: This personal affairs, is that so there would be no conflict of interest?

C: That's right. The kids were somewhat disturbed at that point. I was almost out the door, as I say, and they asked me to read them a story, and I went back to calm the children. My oldest child at the time was six or seven years old, and she had the feeling that there was no government, that the United States government was no more, and there was chaos. In her little mind, this was the way it ran, and I had to assure her, yes, the Congress of the United States was still available, President Johnson was very capable, and there would be no problems, and I spent ten or fifteen minutes with them, and I ran out of the door. The Fortases lived on N Street; it wasn't very far from my house, and about eight-fifteen or eight-twenty, I got there.

We met in the living room of their house, Carol and Abe and Leonard Marks was there, and I. And the discussion was, "How do we make sure that the President doesn't run into any potential conflict of interests problems, and what ought to be done to take the worries out of his and Mrs. Johnson's hands?" so that whatever assets they had could be managed without any personal knowledge on their part. And this is kind of sensitive; I don't know what we'll do with this, but there were some of us who wanted them to sell the station immediately, Leonard and I, me particularly. I said--there's a problem. The President is security conscious, coming out of a poor background as he does. He was concerned--this [KTBC] was the only asset they had, and it really wasn't that valuable at the time; it was becoming valuable. They had worked with it--after all, she had inherited that little bit of money from her father and acquired it with that little bit of money, and they'd really built it by her skill and by Walter's skill and managing it, making what

heretofore had been a loser into a winner. And people say it was the only station in town, that's true, but it had always lost money before. And it was really a management skill because being a senator didn't help him get any business. They were the only station in town before that. So if there was business to have been gotten, it would have been gotten in any events.

And he was concerned, you know, "What'll I do? What about my children? What happens if anything happens to me?" After all, he had had a heart attack before. All of these things were discussed by us. I was getting them second hand, and I had not had any personal contact with the President at that point. But I took the position that no president of the United States, after leaving office, has ever starved even though [Ulysses S.] Grant had had to write memoirs to manage, and that the cleanest thing to do would be dispose, although I recognized that there really wasn't any absolute necessity for it. It really was a public relations gesture on my part, and I was being willing to sacrifice for him. Leonard had a similar feeling, although not as strongly, not nearly as strongly as I. Abe was reflecting, I suspect, the President and Mrs. Johnson's feelings. He didn't know--at that point we were talking about being president for a year. After all, Kennedy had not been that popular. Kennedy was making the trip to Texas, after all, to mend political fences because it was looking kind of rough for the campaign next year. So that President Johnson was feeling really that, "I've got a year, thirteen months, we've got to do as much as we can, but there was no job security here." He was wrong, of course, as it turned out, but I think he was right in making that assumption. And Abe indicated that if there was a way he could hold on to it and still prove to the public in fact there were no conflicts of

interest, we certainly ought to work it out. So we discussed at that point selling it to the employees, selling it to third parties, liquidating it--there were all sorts of business plans that went on. And the meeting broke up about--I guess Leonard went home around nine o'clock; he left early. And we said none of us would bother the President until we worked out a plan, although Leonard called the President five minutes after he left the house, because we got a call back from Walter shortly thereafter that Leonard had reported on what had happened. I don't say this derogatorily; he had a good relationship with the President, a close relationship. Leonard had been the legal adviser to the station, and we really weren't talking about Mrs. Johnson's business affairs now; we were talking about Mr. Johnson as the president of the United States, and what personal problems might occur.

And--I guess I ought to look at these notes. They're scribbled; I can't even read them. You know the history of the station; she had gotten it in the early l940s, and I don't have to go through that.

I discussed a number of technical aspects of corporate law and tax law and how we'd go about this.

M: There is an accusation about the station that Johnson used his position as senator to gain FCC [Federal Communications Commission] approval of plans.

C: You know, that all predates a long time anything that I know about. I have no knowledge whatever about any of that.

After the meeting was over, it was about ten-thirty or eleven o'clock; I went to my office. Everybody else went to bed. And I went to the office and started drafting

documents. I wanted to study Texas law--I'm not an expert in Texas law. And I got out some trust forms and so forth. And on Saturday, I guess it was the twenty-third, I went to the office and worked from early in the morning until about seven or seven-thirty at night. I got out their financial holdings, which we had in the office by way of advice--the principal holding, after all, was the company--to find out what was in it and what were financial conflicts, and how would one insulate them from any responsibility or knowledge of actions, how it ought to be done. And I planned on putting Mrs. Johnson's--the stock was in Mrs. Johnson's name; it was never in the President's name--Mrs. Johnson's stock in trust with directions for the trustee to sell it or with the option in the trustee to sell it if he wanted to. Then we had the problem of--you know, they had held it twenty-two years. I mentioned all those problems. They had a lot of employees who had grown up with them, become personal friends; they had treated them like family. That's one thing about the Johnsons: once they become close to you, you're treated like family.

I met the next morning, Sunday morning, at the Fortases' home about nine-thirty, and I had documents drafted. And we again discussed various plans. Walter called--

M: The President was back in town by this time?

C: The President was--yes. The President had been in town since Friday night. I discussed with Walter some of his own financial plans, because we've got to insulate him against any kind of conflict of interests. He's going to be in the White House. I was drafting trusts at that time, wholesale. You couldn't know anything about anything. I'd draft them, and they'd document them and get a financial adviser and put somebody's assets in

trust so that their financial adviser could invest them as if they were his own without giving any knowledge to the investor except at the end of the year, a lump sum amount which would go in his tax return, but didn't know from whence it came, didn't know dispositions or anything like that.

Walter and Abe went out of the room several times to talk about some other matters other than this, other governmental things that Abe was presumably giving them advice on. Walter asked me at that point to work up a memorandum to the President and Mrs. Johnson, listing the alternatives--what were the ways that this could be done, what were the advantages and detriments of each.

And about 3:00 p.m., this was Sunday, and I was still working on the memorandum, he asked me to come over to the Executive Office Building--the President was operating out of the vice president's office still on that Sunday. He did until some time the next week when he moved over to the White House. He didn't move out of The Elms for quite some time. I'm sure you can get the timing on that. And Carol and I went. She had a cab driver who used to chauffeur her around, and she had gotten him to pick us up, and he dropped us in front of the Executive Office Building. And they must have had an agreement with reporters--the reporters were all gathered around the side entrances to the Executive Office Building, in other words, between the White House and the Executive Office Building. We walked in the front door and nobody even, you know--we walked in off the street, anybody could have seen us, but nobody did. There were three or four Secret Service men at the front door, the White House police. We had been identified by Walter; I identified myself with a driver's license because that was the only

thing I had, which was evidently sufficient. I was kind of surprised that a couple of days after a President was shot no one asked me to open my briefcase. But again, I guess I had been identified by Walter as being on my way.

We went into Walter's room, which was the room immediately next door to the President's--then-President's office, the vice president's suite, really. And there's a swinging door between that office and the president's office, the vice president's office--it's hard to identify the thing. So I could see the President every time the door opened or closed, and there were people coming in and out--Bill Moyers came in and out, Walter went in and out, a secretary went in and out. The President was complaining bitterly that he was hungry. He had sent for some soup; they had brought it over from the White House kitchen, but the White House kitchen is a block away, and it was cold. And so finally out of desperation, one of the secretaries, I guess it was Mildred Stegall, had gotten a hot plate and opened a can of Campbell's soup and made soup for him right there in his office.

There were various people coming in and out, former Secretary of the Treasury [Robert] Anderson along with former President Eisenhower came out of the President's office while I was sitting there and sat at the other end of the couch that I was sitting on. I was dictating my memorandum to one secretary, and he was dictating another memorandum to another secretary on things that he thought the President ought to do and a number of things that he thought the President ought to say in his coming speech to the Congress in joint session.

A number of governors and mayors were going in and out of the President's

office. They were mostly using another door on the other side, so I couldn't see them, although I could hear them, because the doors, you know. And they had discussions.

At one point, one of the secretaries went in looking for the President and couldn't find him. He was on the phone, they knew that, but they found out there was a phone in the "john." He was in there still on the phone, you know.

M: Was he setting up political support with all these meetings? I mean, your role was obvious--

C: Well, I can only suppose what was going on, you know. In the Anderson meeting, yes. I do know [former president Dwight] Eisenhower was down and consulted on the phone, and it was again in terms of continuity and support and this uneasy feeling. There was also a good deal of discussion going on around me that nobody was still yet sure whether this was a conspiracy or not. And there were Secret Service reports and FBI and CIA reports coming in all over the place, some of which I heard and some of which I didn't, but I knew what was going--I was generally aware of what was going on.

M: It was a fairly nervous atmosphere--

C: It was still a fairly nervous atmosphere, although it was beginning to calm down by Sunday. They were beginning to be reasonably sure that it was not a large conspiracy, but they were not certain, and there was still a great deal of uneasiness. And you could read it in the office. You could feel it going on around you, although again, I was not part of these conservations. I wasn't privy to them, so I have no idea of what went on in there.

Carol left early, and I stayed until the secretary had drafted the memorandum, and

I had made some corrections, had it redrafted, left it with Walter and took several copies for Abe and Carol. They were going to have dinner at the Elms that night with the President and Mrs. Johnson, just a family dinner--a couple of other friends. Carol once mentioned to me who was there, but I've long since forgotten. I didn't make notes.

I called them at the Elms because I wanted to make sure that they got the copies from Walter and that they understood what I had done. That was Sunday.

Monday was the President's funeral. I never saw the funeral. I just locked myself in a room, and I was still working on these things, because by then I had had some comments and some ideas of what they wanted done.

Abe went to the funeral; Carol and I did not. And I began drafting trust instruments for Mrs. Johnson in regard to LBJ stock. It was decided that it wasn't absolutely necessary to sell it, although they were not opposed to the sale if they got a favorable sale. The trustees were really given discretion to do what they will with it. The trustees again were not to report to the Johnsons about any business transaction; the only information to be given to the President and/or Mrs. Johnson, as the case might have been in any of these documents, was that information which was necessary for them to fill out a tax return which could be in the law--which is in the law--because the documentation and the source of income on documents would have shown on the trust returns, which they would not have received a copy of. All they would have gotten was the distribution schedule, which shows how much ordinary income and how much capital gains, and where it came from, that is from the trust, not from the real source.

This is pretty sensitive, I mean a lot of this, I guess, we're going to have to lock up

for a long time. When I was drafting these things on Monday, when I really got down to drafting the instruments and not the plan, I had been told--and I think it had been announced publicly--that when President Kennedy took office that he put all of his property into trusts of which he had no knowledge. So I wanted to find out who had advised President Kennedy and was it possible for me to see the trust instrument, because I could have saved an awful lot of time and followed a pattern. I was told that Clark Clifford had handled the transition from the Eisenhower Administration to the Kennedy Administration, and that was the case. I called Clark Clifford, and he said yes, he had; yes, there had been an announcement that there was a trust instrument. No, there was no trust instrument in existence. It had never been done.

After I calmed down, I said, "Thank you very much," and I went off and started drafting by myself. It was kind of a shocking thing because I'm pretty sure--I can't document this, but I'm almost positive that it was pretty well portrayed that President Kennedy put all his property in trust. Now, most of his property was in trust from his father, but it was not the kind of trust where he didn't know what was there. He knew what was there, and it was much, as I gather, much oil and gas properties and the various things that people were making accusations about Johnson.

President Johnson did not, to my knowledge, own any oil and gas properties at all, or oil and gas stocks. He just kept out of them as a matter of--I guess he thought it was good politics. It just wasn't wise for him to get personally involved. If his state was involved, he could represent the interests of his state, but he wasn't going to be representing his own personal interests. He was always very fastidious about these things

and Mrs. Johnson more fastidious.

Well, I went ahead and drafted these things. I must say also that Kennedy had a lot of defense stock. President Johnson didn't have any at all, so most of his money [was in] property--her property, really. Her property was mostly in the LBJ Company, which had a cattle ranch and the station, and his was principally in government bonds--state and local bonds. That's the way he had invested. I mean, he didn't have that much money, I mean outside of the station, which was hers--you know, his savings were really all that he had, and I think he had an arrangement with the local banker to just roll over his portfolio of government bonds in this type of security.

M: So then you drew up the trust instruments?

C: So then I drew up the trust instruments. I started drafting the trust instruments. He didn't even want his municipal securities in his own name. He said, "I don't even want to know which municipal securities they own, or which state securities." So we put those in trust, even though heretofore he hadn't really known because the banker had done it and sent him a confirmation. But this ensured that he would never get a confirmation; he's never know[n] what the banker was investing in. And he gave an irrevocable power of attorney to one of the trustees, A. W. Moursund, to manage his ranch property. He owned some land--the President owned some land--his own land. And Moursund had been his partner in these transactions. Moursund is an expert in cattle raising, and he said, you know, "You run it, I don't want to hear from it." [Cohen later noted, "One aspect I forgot was I asked President and Mrs. Johnson to purchase the portion of the LBJ Ranch used by them from the Corporation which had owned the Ranch as a business asset. They bought about

forty acres."]

Then I went out to The Elms on Wednesday. This was Monday or Tuesday I was doing all of this. Wednesday, I went out to The Elms and spoke with Mrs. Johnson. I think Carol was with me. The basic document, after all, was hers. The President's stuff was pretty sterile stuff to begin with. He had a little land, and he had the government securities and a little stock. But she had the big properties. And so we discussed these things with her. Leonard was there. During the discussion, Mrs. Johnson played for me, for all of us, a tape that she had just made of her recollections of the day of the shooting, which I guess the tape will be in the Library. It was pretty vivid because she had just done it the night before, and she had just done it sometime during that couple of days. She was trying to get on tape everything so she wouldn't forget it. And she suggested some minor modifications. And we made up to meet again at three p.m. on Thursday, which was Thanksgiving Day.

I went back to the office and worked until about nine or ten o'clock that night, making the changes that were necessary. I had no secretary; we had let all the secretaries go because it was Thanksgiving, so I did everything myself. And I went home to dinner about nine-thirty or ten o'clock. My wife and family didn't see me for this whole week. The children didn't know where I was.

I had the secretary come in on Thanksgiving morning. I went by the office--since the children hadn't seen me since the previous Friday--I went by the office and dropped off the documents that needed changing. I had had the basic documents drafted; there were just a few minor corrections. The secretary came in, I gave them to her, and I took

the children to the zoo for a couple of hours. And then I went by the office and while the children played in my office, I went with the secretary in the next office and we proofread. Because there was nobody else around, I had to proofread the documents with her. And then I took the children back home, we had lunch, and afterwards, I drove over and met Carol and Abe, and we drove over to The Elms for this three o'clock meeting.

At the meeting was--this is interesting. The President was not there. Mrs. Johnson was there. Waddy Bullion was there; he was to be one of the trustees. He's a lawyer in Dallas. A. W. Moursund, Judge Moursund from Johnson City, Texas, was there. He was to be one of the trustees. Walter Jenkins was there, Leonard Marks was there, Mr. and Mrs. Fortas, and myself.

The President was going to make a speech that day. As you will remember, Thanksgiving Day he made a speech to the country. Mr. Marks left around five o'clock, as I recall it, Mr. Johnson--the President came in for a while. He had been working on his speech. There had been some problem, I guess--Abe--Bill Moyers called him from the White House and Jack Valenti called him. Abe made some corrections and helped work on the speech a little bit. He went out of the room. I guess Mrs. Johnson went with him. They left around 5:45 to go down. The speech was made from the presidential office. And then we turned on the TV in the rooms; I guess I went into the President's bedroom. I commented to my wife that she shouldn't complain any more about me hanging my underwear on the door or dropping it on the floor, because the President hung his underwear on the doorknob.

The president's house, The Elms, was a very relaxed household. It was

not--although the house was messed up--it was kind of a formal affair--they operated in a very relaxed way. We were in the den on the second floor; it had a large piano in it and a lot of comfortable chairs and some rugs. The President was a knickknack saver. Mrs. Johnson is a knickknack saver, and they had a lot of little remembrances of all sorts of things around the room.

And we watched the TV. He did a great job. That was one of those things where he tried to pull people together, and it was a fine speech, and he delivered it well. And he got back and everybody complimented him. I guess [Jack] Valenti was with him at this point; I don't think Bill Moyers was there. And we sat almost until nine o'clock; nobody had had any dinner yet. The President sat in the corner of the room in one of these--he likes these slouchy chairs, and Abe sat next to him, and I sat next to Abe. And Abe was explaining my documents, and I was piping in occasionally. Abe really hadn't had a chance to see them, although he's a very competent lawyer and he picked it up.

And in addition to the financial affairs, every once in a while he would--there were a bunch of us sitting around, and he would throw in a name for an ambassadorial job, for a cabinet job, for a job that was open; you know--"Do you know this fellow?" There were a few names that were thrown around. We discussed specifically the civil rights program. He was very interested in it. A number of times in my presence the President had indicated a very strong interest, which I would think indicate[d], contrary to what a lot of people said, that he personally was interested in it. Because he didn't have to put on a show for me; I wasn't the public. He did express, for example, he once expressed great concern that Zephyr [Wright], his cook, had traveled from Washington to

Texas and had not been able to find an adequate place to stay overnight, because they wouldn't accept Negroes. He just was incensed at this, and he said he was going to do something about it.

M: He was willing to talk about this?

C: Yes, just right off the bat. We talked about the tax program, I guess because Carol--Waddy Bullion was a tax lawyer, I was there, and Carol was there, so he wanted to know about the tax package that President Kennedy had proposed that was getting nowhere at the time. It was really bogged down, and was going down to defeat.

M: Was President Johnson just asking for information, or was he favorably inclined on this or what?

C: He was mainly asking for information. He was rather favorably inclined, but not really knowledgeable, not as knowledgeable as he ought to--you know, as president he would have to be. He was generally aware of the problem, the program and the problems. This was informational, the tax aspect.

Well, the documents were signed there; I think I was the witness to one of them. I just wanted to get my name on the document, to tell you the truth. I witnessed one of the signatures, I guess it was the President's and Mrs. Johnson's. One of the documents has my name on it as a witness--

M: So the trust instrument was completed at that point?

C: All of the instruments were completed, the trust instruments, the powers of attorney, the other documents were all completed, and I took them and put them away and made distribution of where they ought to be, the trustees, and I've got a carbon set somewhere.

I'm sure you will be able to have access to the originals so you won't need my set, wherever it is. I don't even know. It's probably down in my basement somewhere.

That was the end of that episode. And there was a little more flurry of activity. I carried on a little bit more in that area for the next few days. Mrs. Johnson decided that we ought to sell The Elms, that she ought to sell The Elms. And I suggested that perhaps The Elms would be a good residence for the vice president on a permanent basis. Maybe we could get the United States to buy it. They thought that was a pretty good idea, but Congress wasn't in session--I guess Congress was in session. Congress was in session, but there was no time to do it. And I toyed with the idea and tried to get some support from some foundation people to buy it and hold it until it could be acquired by the United States, but it fell through and they decided they'd better just dispose of it. And Mrs. Johnson--I had a meeting with her at the White House one day, she and I and Walter. She said she thought they ought to sell it. They had a lot of money tied up in it. They could use the money, that the White House was expensive, and you don't generally make out on the salary and expense allowances. And again there was concern. They were financially concerned at a short-term lease. And election in a year. They didn't know what he would do or where he would be at that point. It was a very uneasy period. There was no real confidence in reelection.

But she said she didn't want to make a profit. She said, "I want to get what we have in it out; I don't care if we make a profit. I'd just as soon not make a profit. I don't want anybody to say we're profiteering." So she asked me and Walter to figure out what she had in it. So we went back and picked up her original basis; they'd built a swimming

pool, and whatever improvements she'd had on it. We tried to figure what it would be fair-market value--what it would be worth on the market. And Walter didn't have time. He was the President's top assistant at the time, and she didn't certainly want to engage in this. She didn't want to hire a real estate firm. She didn't really have confidence. So she said I was to sell it.

And so I tried to make arrangements. There were a number of stories--I guess we'll have to pick them up out of the newspapers, telling about the Elms being for sale, and an unnamed lawyer saying that in order to get into this--you know, we're not going to run a sightseeing tour.

M: You were the unnamed?

C: I'm the unnamed lawyer. I wouldn't let them use my name. I didn't think it was right. I didn't want the publicity, didn't need the publicity. I asked for a $10,000 deposit--it was a $250,000 or $300,000 house--to even look at it, because I had to figure out a way to keep sightseers out of it. And a number of people, prominent people in town, looked at it. I let a number of the better-known real estate dealers in town know that if they knew of anybody who wanted it, they could bring them around, and we'd make arrangements to show it to them. Mrs. Johnson was specific. There was a racial covenant in Spring Valley. The President and Mrs. Johnson, when they purchased the house, had on file an affidavit in which they said they never intended to pay any attention to a covenant running with the land--that in buying the house, they were completely disavowing the covenant, and that they would, in fact, pay no attention to it. And she specifically said that. I said to her, I said, "You know you've got a covenant here. I know you've got this

affidavit filed." She said, "You may sell it to anyone," and we showed it to Jews and Negroes, and we showed it to diplomats from a number of countries, including Arabs, and we showed it to all sorts of people.

I left the firm before it was bought, so I had nothing to do with the actual sale of it. Somebody else handled that. I don't even know who did it, because it was not sold before I left the firm. And once I became a part of the government, I divorced myself from all that.

When she moved out, she gave Faye and me a set of andirons and a few other little knickknacks from the house. I helped her one day with her cataloging of what she wanted to keep and have in the White House--a number of things. A number of things she wanted to send back to Texas for the home there, and things that either would be sold with the house because--for example, there was a dining room set that Mrs. [former owner Perle] Mesta, I guess, had built especially to fit the dining room and really wouldn't--you know, there were few other rooms around that could take that set since it was built specifically to fit that room. A number of things like that she said, "We may as well sell those with the house. There's no sense trying to sell them independently or taking them."

And I told her we were looking for a piano for our children. They had two pianos. They had a baby grand which she took down to the Ranch, and she had a small piano which had been the girls' first piano that they had learned on and which they kept on the first floor and they used for parties. The baby grand was on the second floor, and I said I'd like to buy it [the small one]. And she said, no, she was just going to give it to

me. And I said, "No, I won't let you give it. I'd let you give me the andiron set and a few other things like that, but that's too much; the piano is worth too much." She said, no, she wouldn't take any money for it. And I said, "Let me have a piano man come out and look at it and tell me what it's worth, and then we'll discuss this."

So I had a tuner and an appraiser come out and look at it, and they said it was a good instrument. It wasn't a great instrument, but it was a good, good piano. And they told me it was worth somewhere between $350 and $500. And I said, "Okay." I told her I would pay her $500. She said, no, she didn't want anything. I said, "All right, I'll pay you $450," and she said, "I'll take a hundred," and we negotiated until I think I paid her the $300 or $350. But I started up and she started down, and we met in the middle somewhere. And I told her I would not pay her less than $350, because that was the bottom figure he gave me. And so I bought the piano, and we have it. Our children are learning on that piano.

That, I think, illustrates the kind of person she is, which is the reason I thought the story was cute. My children used to like to go over there when we were looking at the piano. I guess my son was just an infant then. He'd play with those little traction cars in the hallway there. They had a marble hall, and he loved to play with those traction cars. He used to clean up the floor.

M: When did your appointment come then?

C: December sixteenth. Carol Agger had been offered a number of jobs by the President. She declined all of them. I think she likes her privacy. She didn't want to go. She's a very able woman, one of the best lawyers I know. I once said that one day I would like to

go back to the Chief Counsel's office. I know what the problems are; I think I could do something about them. She didn't want me to. Carol's a possessive person; she's a nice person. We have almost a mother-son relationship. But she didn't want me to do it.

I guess it was around December 16, Walter Jenkins called me, and he said, "Would you like to be chief counsel?"

M: Just called you on the phone?

C: Yes, and I said, "Some day, but not now." I had been a partner of the firm for I guess about a year, and I just was beginning to make some money. I had bought a house the year before on the strength of knowing I was going to be made a partner that was more than I could afford even at the first-partnership level. You know, you always buy a little over your head. And I had three and seven-ninths children at the time. And I said, "This is no time for me to take a cut in pay." I was making about $30,000, and the chief counsel's pay at that time was $19,000. Presidential appointees were then getting $21,000. The Chief Counsel was relatively low.

He said, "Well, think about it. I'm not going to ask you today to give me an answer, and I'm not even offering. But I want you to think about it," you know, "would you take it?"

Faye's father died that day--my wife's father, that morning, and the family lived in Baltimore. And I got my mother and the maid to take care of our children, and Faye and I went off to Baltimore to spend the day with her mother--Jews bury their dead the next day. We had the funeral on Tuesday. This was Monday morning. We'd have to check what December sixteen of 1963 was, but I think it was Monday. We buried him on a

Tuesday, and I spent the rest of the day with them--Faye stayed with her mother, and I came on home. My mother had gone home by then, and the maid was staying with the children that afternoon.

And the maid told me that the White House had called when I got home, six or seven o'clock in the evening. And so I went to the phone, I picked it up, and I called the White House operator, and I said, "I had a call from the White House. I believe Mrs. Johnson wants to speak to me," because I still had some residual dealing on The Elms, and I figured it was something to do with that. And the girl said, "Just a minute," and the next minute the girl said, "Mr. Cohen, the President--" and the President was on the phone.

And the President had sent a telegram to Faye and her family expressing sympathy, and he told me how sorry he was to have heard that she had lost her father. And I told him it was one of these things where it was a kidney disease and was not unexpected. After we exchanged pleasantries and his condolences, he said, "Sheldon, are you going to take the job?" And I said, "You know, Mr. President, I really haven't had time to think about it."

He said, "Oh," and this was no time to pressure Faye into making a decision. She was quite unnerved by this whole episode, and that I would like to think about it a little bit more before I gave him an answer, And he said, "Sheldon, we've got terrible problems down there. We need you." He said, "I want you to take the job because I need you."

And I said, "Mr. President, if you put it that way, what else can I say? I'll do it. I don't know how I'll explain it to Faye." He says, "Oh, don't worry about Faye," he says,

"I'll talk to her." And I told him about my financial problems, with kids, and he said, "Oh, we're going to get a government salary increase this year, and Abe will take you back." I'll never forget those words, "Abe will take you back." I said, "All right, we'll work it out somehow."

M: Did he explain to you what the problems were?

C: No. I think he was just laying it on. The chief counsel's office was a mess, if he knew--I mean he may have known. I think he probably--he probably did, because he's a pretty good detail man. The chief counsel's office for years had been impotent. It had a turnover of people, no one of whom had ever stayed more than about a year and a half or two years. As soon as they found the washroom, they left. And it had once been a really fine law office. I suspect I got killed with my own mouth, because I had said that it could be a fine law office if somebody would take the trouble and time to do it.

During the period there, I worked on trust agreements for several people, Jack Valenti, and a couple of people in the State Department, and Walter's and some other people's. I guess--I was now an expert at drafting trust agreements to avoid conflict of interests, so other people were finding out about it, and they'd come, and I'd draft them.

I guess around Thursday Walter asked me for a short biographical sketch. I had talked to the President Tuesday. Thursday he had said he wanted a biographical sketch. And I sent it to him, and he said he wanted to send me over to see Secretary [of the Treasury C. Douglas] Dillon.

Dillon called me on Friday, and I went over around 4:30 to talk to him, and I talked to him for about forty-five minutes. And he introduced me to the general counsel

of Treasury. And I talked to him for about an hour. And I wanted some assurance, [IRS commissioner Mortimer] Caplin was a pretty powerful guy, and he had been there for a long time, and I was pretty young. I was thirty-five or thirty-six. And that I would get backing. And if I was going to firm up the office, I was going to need some backing from the two of them, because there was a reorganizational plan kicking around, and I had heard something--a little bit of rumors about that Caplin had weakened the office. It wasn't a bad plan; it was a pretty good idea, but if I was going to go in there first off, I couldn't let anybody reorganize from under me because I would have lost any influence I might have had. And so I had to have their assurance that they'd back me up. And they did. They indicated that they'd rejected some aspects of this thing as it would have affected the work of the chief counsel's office, and therefore I really had no concern. And I went over and talked to Caplin for about an hour or so. I knew Caplin; he and I were friends. He had been a close friend of Louis Eisenstein's. They had both worked in the same firm at one time, were juniors together, so we got along fine. I indicated to him that part of the problem of the chief counsel's office was because the chief counsel's office is actually independently commissioned. The chief counsel is not a subordinate of the commissioner. The chief counsel is an independent presidential appointee who answers to the general counsel and through him to the secretary. And it's a little different than most organizations where the chief counsel is answerable to the head of the organization.

And I said that it seemed to me that the impotence of the chief counsel's office had grown up because everybody was so overly concerned with their independence that they forget that their chief function was to provide advice to the commissioner of Internal

Revenue, and that I intended to operate as a law office. And a law office provides advice to clients. And the client makes the decision, not the lawyer. And they had tried, in many instances, to make the decision, and a lawyer can only point the client in directions and tell him which one is best and what the alternatives are, and the client has to make the choice. Well, I think we started off on a good footing. We had this basic rapport with one another, and that was fine with him.

That same day was the Christmas party of the Arnold, Fortas and Porter firm, and I went back to the Christmas party. I was late, and I couldn't tell--I never told anybody. Nobody knew about any of this except Carol and Abe. I guess they knew, although they were not party to it. Carol I don't think had put him up to it; I'm not sure. I'm pretty sure she didn't, because she didn't want me to go. If she didn't want me to go, she wouldn't have put him up to it unless she accidentally said, "Sheldon's interested," and then wished she hadn't. That might have been; I don't know. Again, I wasn't party to this, but I do know she didn't want me to go, and Abe was not enthusiastic either.

M: Do you suppose this was the President's idea then?

C: Either that or Walter's, I don't know. You'd have to get that from them. I'm just not sure. But it could have been that if Carol or Abe had said something and then wished they hadn't, because they certainly expressed to me a reluctance for me to go.

I got home about eleven o'clock that night, and Walter called me and said that the Secretary had liked me fine, and that the FBI check would start right away, that the President did not want an FBI check. And I said no, I thought I ought to have one. I was not special, and I ought to get what everybody else got, and Dillon agreed. He thought

that for the protection of the President that everybody ought to be treated alike, even though by then we had some kind of personal relationship. I said to the contrary, you've got to make sure. Walter told me when the FBI report came in. They had half a dozen agents working on it at the same time, because the President evidently gave them a deadline of "tomorrow" like, you know. It was like a snow storm, and they were working on both sides of my street, two different agents, and all around town. And Walter told me when the FBI came in, it was the cleanest FBI report you'd ever seen. I said, "That's because I'm a non-joiner, and because I like to stay at home rather than go out."

M: Did the President make the announcement?

C: That Monday the FBI worked--Abe and they saw me--they sent out a revenue agent to check my returns, which is routine. I had an audit for three years. The agent told me that I had the cleanest set of records he ever saw, and I said, "If I couldn't prepare a set of records right, I don't know who could." It was really complimentary.

Then Walter called me by the middle of the week and said everything was all right, and would I like to be the White House courier carrying the mail down to the Ranch the next day? The President wanted to see me. So I said sure, and I went down to the White House, and he had a batch of White House mail, a number of bills that needed to be either signed or vetoed, and I had veto messages and signing messages and alternatives. There was one bill involving importation of certain wood products that they were recommending veto, but I had it both ways just in case, and I sat with one of the White House counsels who explained the whole thing to me until I could explain it to the President in case he had any questions. He could call, of course, but just to give him at

least the explanation of what the two documents were and which choices he had. There was a memo to call the prime minister of Canada to explain his action. Then I picked up all of his documents--and I guess it was Friday morning at eight o'clock in the morning. We left from Andrews Air Force Base in Secretary [of State Dean] Rusk's plane, air force plane. Secretary Rusk was flying down and Secretary [of Agriculture Orville] Freeman, Ambassador [to Germany, George] McGee--. The Germans were coming to visit that weekend, the German Prime Minister [Ludwig] Erhard. Was it Erhard? Well, whoever was the prime minister at the time. There were a whole flock of people. I can remember getting on the plane and feeling absolutely lost, because the only instructions I had were that I was to catch this plane, Secretary Rusk's plane, at eight o'clock in the morning, and that was all. I didn't know anybody.

And I went out to the plane and identified myself, and they asked for identification, and they said, "Just get on." And so I got on with a little bag and a couple of things, and the plane was set up. I guess it was a DC-8 or 707, I can't remember which. I guess it was a 707. In the back part, it had some--three seats across and in the front part it was set up first-class, and it had some tables for working, sort of an executive set-up. Well, I just sat down in the first seat I found, which was one of the threes across, and General [Chester Victor] Clifton [Jr.] came over to me. And he asked who I was, and he says, "Oh, no, you belong up there." So I went up front, and I really sat by myself, because I didn't know anybody. I guess I had met a few of the fellows over in the State Department, the head of the executive secretary--Secretary Rusk, I can't remember his name now. Know him real well, too. I can't remember his last name. [Reed]

We got to what's his name Air Force Base, the one up in Austin, Bergstrom. And it's a funny feeling landing at a SAC [strategic air command] base, because they don't put on brakes on the plane, you know, and you just roll. In a big plane like that, you're always used to when you're flying, having to reverse the prop, the motors, and braking the plane. They didn't; they just rolled. And it was a very eerie feeling. You could see those big bombers sitting at the end of the runway with their crews playing baseball at the side of them or something like that is a strange feeling, too. There were three or four helicopters, two helicopters, maybe three, close by to take Secretary Rusk and McGeorge Bundy and McGee and Orville Freeman, and there were two or three other important people there, to the Ranch. And I walked up to Clifton, and I said, "I think I'm--nobody has told me how I'm supposed to get to the Ranch," There were a whole bunch of other people, newspaper, *et cetera*. They were all going to town. I said, "I'm supposed to go to the Ranch, but nobody told me how I'm supposed to go there."

Well, they finally crowded me on to one of these helicopters, and we went out to the Ranch. It was a presidential--you know, one of those quiet, nice jet helicopters, and everybody started trooping off to the house, and I, in just a very lonesome fashion, was walking ten paces behind anybody. And the thing that got me is that when we got to the house, Mrs. Johnson had the Secretary of State and the Secretary of Agriculture, and there was at least one other cabinet officer--I can't remember who--and McGee, Ambassador McGee, and John McCone, a whole flock of people around. And she came over, and she grabbed hold of me when she had all these other people just coming to her house, and she took me around, and she introduced me to each one of them. And she

spent the whole time with me, trying to make me feel like I was part of the group, and she was--it was obvious to her, I guess, that I felt completely out of it, which I thought, you know, was a real sign of a gracious person.

The Germans came in, I guess--I can't remember whether they came in that afternoon or the next morning. And I helped around the house. I helped Liz Carpenter put up decorations, a whole bunch of us--Tyler Abell was there, too. His appointment was going to be made the same day. The President had a press conference down in the pasture. He did not make our announcements. I think the only announcement he made that day was Mann's, Tom Mann, as under secretary of state. And the Erhard party came in, the Germans, and they had conferences in the office. The President talked to Tyler and me, and he said we probably ought to go home to our families. [He] didn't want to keep us there too long; the announcement probably wouldn't be made until Monday.

But the President did invite me to dinner. There was a luncheon meeting he had, but he had a private dinner that night. It was just--Mr. and Mrs. Johnson and Lynda. It's funny; he was not enamored with having Luci at the dinner. He says, "She's too fly-brain," so she went off to town with one of her boyfriends for dinner. And Governor and Mrs. Connally and Mr. and Mrs. Moursund and Jack Valenti, Bill Moyers and myself, in just the family dining room. Governor Connally was still wearing the arm in the cast, or bandages, in a sling. It was a quiet, congenial dinner. That was one of the highlights of the appointment.

I just sort of hung around, and I met the President a couple of times. Before the dinner was an interesting evening. We were sitting in the President's study there, the den,

and McGeorge Bundy walked in. And it was Bill Moyers and Jack Valenti and myself. And Bundy walked in and said that he had just got a report that the Turks had invaded Cyprus. And I looked at him, and I said, "This is going to make great dinner conversation." He said, "Wait a minute; I'm not going to tell the President yet; that's just off the ticker. Let me get out of the White House ready-room." So he got on the wire, and he says, "Oh, no, they're steaming around Cyprus." He's a very cool, very cool person. You know, he didn't react immediately. He said, "Let's take our time, and we'll check this before we bother the President with it."

So that conversation never got to that point. I guess the next day--I can't remember whether it was Saturday or Sunday we came back, Tyler and I, on the Jetstar courier plane that was running the White House mail.

M: The President had not yet made the announcement?

C: No. The President made the announcement on the thirtieth, I think, which was Monday. He was in Texas; we were here.

M: Well, why did he invite you to the Ranch then?

C: He said he wanted to see me. We did spend a good deal of time that day together. He had just a personal feeling, I guess, that he'd like to have personal relationships with people who were going to carry out his programs.

M: Did he make the announcement from the Ranch?

C: He made the announcement from the Ranch. The only things he had told me--he said, "I want good service to the public. I want honesty in the administration." He told me that if anybody from the White House ever called me about a tax matter, I was to just refer them

to him. He says, "There are three things I don't ever let any of my staff do, and I never have since I've been a senator." He says, "They can't interfere in a Selective Service matter," he says, "can't win a government contract, or a tax matter. If anybody ever bothers you trying to influence you one way or the other on a tax matter, you just refer them back to me." Walter told me the same thing. I've only had to tell one or two people in the course of the time. I've never had any real trouble. I expected to have it, but I never did.

M: Well, then that episode got you appointed?

C: Yes. That gets me appointed.

M: This may be a good time to stop.

C: A good time to stop maybe.

(End of Tape 1 of 3, start of Tape 2 of 3)

C: I had indicated to him that I would like at least several weeks or a month to clean up my business affairs and get straightened out. The announcement being made on the thirtieth, I didn't realize, I guess I should have, that really you can't operate as a private lawyer after that time. There's a conflict of interest situation, but I could have cleaned up some stuff.

We also had the problem that Congress was coming back into town in a few days, and that if I didn't take the appointment as a recess appointment, I would have to wait until I was confirmed to be sworn, or not get paid. So with those complications, they wanted me to be sworn right away, and so I guess I was sworn on January 6 and came in.

M: And you went to work?

C: Yes. I came down a few days beforehand to meet people. I had been a junior in the office. The then-acting chief counsel was a gentleman by the name of Hertzog, whose name you remember from our conversation this morning. There was a system of chief counsel, two associate chief counsels, and special assistants and division directors. He was the associate chief counsel with the longest tenure, about forty-five years. The other associate chief counsel was a fellow who had been one of my supervisors when I was in the office. He had been the assistant chief counsel in charge of the area that I was working in. And I had a long talk with Mr. Hertzog, and there was a fellow named Harvey Wise who was the assistant to the chief counsel in charge of the administrative work of the office. And I tried to get a rundown of people.

The one trouble spot was the division I had come out of. That was the regulations and legislation area that were not getting along as well as they should have with the Treasury; they were not being consulted as often as they should. Work was kind of slow coming out. And I was trying to get a line on what was the problem. I knew what the problem was. The head of that division, and this was one of the problems the President was talking to me about that he wanted to get straightened out, the head of that division was the assistant head, one of the assistant heads, when I had been there and had been my immediate supervisor, and was a good friend of mine. I had his high recommendation wherever I went, but he was not the kind of a man who should have been head of a division. He was a fine assistant head. He was a good detail man, but he didn't inspire young lawyers, and he was not a decisive individual. He was a nitpicker.

They mentioned a fellow by the name of Lester Uretz as a potential for the head

of that division. I said I had my own head of that division picked out, and I think I shocked them by telling them that his name was Charles R. Simpson--we called him Jim--who happens to be completely, totally blind, and who happened to have been the assistant head of that division at that time and had been in the division with me and a good friend of mine. He was a graduate of the University of Illinois and was the youngest man elected to the Illinois legislature. At that time he was completely blind. Served with Adlai Stevenson and had been one of his *protégés*. He had been the first non-Harvard teaching fellow at Harvard Law School, and then he had come down and worked for the government. He and I were juniors together.

M: You say one of your problems was that the chief counsel's division before you came tried to decide rather than to advise?

C: That's right.

M: Did you change all of that?

C: I hope I did. That somebody else will have to make judgments on--how well I did. I determined that I would stay as long as I could and ended up being a short-term chief counsel. I was only there a year, almost a year to the day, because my appointment as commissioner came in December of 1964.

M: Was that a surprise to you?

C: Yes. I'll get to that in a little bit.

But I had to figure out a way of rearranging that office and was unfortunate in a way, and yet fortunate in a way, that Harvey Wise died of a heart attack shortly thereafter. And the man they had recommended me to take as head of the legislations

and regulations was Les Uretz. I took him as my assistant really, my deputy in charge of running the office. I put him in charge of all the administrative work, and I took the technical work. That is the way we sort of split it. And he and I worked pretty well as a team, and we reorganized the division--I mean the structure [we] tried to streamline layers. We convinced the commissioner that the only way to get regulations out was eliminate some of the superstructure that was built into the regulations process. He had a division and an assistant commissioner's office at that time that worked on regulations coordinated with the chief counsel's office. You know, a lawyer has to draft regulations, and they ought to be reviewed by the commissioner's office as to administrative feasibility, which gives you enough control--the chief counsel is only advising you on that role, but you can't have lay people drafting regulations. Lawyers only have to redraft them in the end anyhow. So we convinced him of that, and we eliminated a whole division. And we speeded up the timing of regulations by several months. The whole process began to move where it had sort of been stagnated.

We had a situation with the Joint Committee on Internal Revenue Taxation. The Code provides that certain refunds in excess of $100,000 must be reviewed by the Joint Committee on Internal Revenue taxation prior to their being made. I suggested that the review process in the chief counsel's office of every one of those situations was completely unnecessary, that most of the cases only needed review if they had legal problems, not routinely. Some of those $100,000 cases were completely routine cases where there was no legal problem involved and that a superstructure had been built that every one of them had to go through a complete legal review, and we had a whole

division of thirty or forty men whose job it was to review every one of these and write a very elaborate report.

So after a while--this was during the course of this year that we did a number of these things. The chief of staff of the joint committee retired, and as soon as the new one was appointed--the old one was sort of locked into these old ways--I went up to the new one who was a friend of mine on the staff here when I worked on the staff here, and I said, "I'm willing to risk, the Commissioner and I are willing to risk, being criticized once in a while for the sake of saving these twenty-five or thirty men working and the interest that accrues on these refunds." The government's paying six percent, and the average time for processing one of these things was a year and a half or more--I've forgotten the time; it was tremendous. And I said, "We'll take the criticism in the rare case where somebody goofs. You send it back to us, if you've got a question, and then we'll get a legal review, and if we're wrong, we'll take the case back. If we're right, the legal opinion will sustain us. We'll take the risk,"

Well, we put that in, and it has worked tremendously. The industry people liked it, because they got their money quicker if they were entitled to it. And this time we eliminated a division in the chief counsel's office. And those people--we didn't fire anybody; we have enough attrition so that over a period of six months or a year we could replace everybody. Nobody got hurt too bad by it. And the people up on the Hill were happy, the people on the outside were happy, and the Commissioner was happy. He saw that we weren't trying to build an empire.

There were a number of things that we did like that. We put out a policy

statement indicating that litigation ought to be for purposes of establishing principles, that one doesn't litigate for money. Because litigation is an awfully expensive way to raise taxes, and therefore we ought to be careful to pick and choose our cases if we're going to litigate, and then we try to establish a new policy. And eventually that led--I drafted the order myself. I later found out, it was kind of odd, I wrote the order myself, and about a year afterwards, I remembered reading an article of Louis Eisenstein's, the fellow I mentioned before, where he had said something about this, and I picked up the article--I cribbed. I didn't really remember ever having done it, you know, but I had gotten a lot of the ideas out of that. He as I said was one of the most thorough and theoretical lawyers there was, both practical and theoretical, and he anticipated most of these problems. I guess I had picked them up by osmosis from living with him.

I had sent a report over on some of the things that we'd done to improve the service. This had improved service to taxpayers, it had made the government a little more efficient, it had saved a million dollars--that's a small office up here, but we saved over a million dollars in a year--only 600 people in the office.

M: Did the President respond to this?

C: Yes. One of the ways he responded was when he appointed me commissioner. He pointed it out.

M: Is it your impression that President Johnson is unusually concerned with efficiency?

C: Yes, I think his light-turning-out bit was not chintzyness, but I think an effort toward efficiency. He hates to see wasted motion. He walks into a government building; he sees people standing around a coke machine; he gets disturbed. He really does.

M: The turning out of the light was then not a wholly political gimmick?

C: No. The measures I took he responded to. These were the kinds of things he could understand. And the first year he was in office, he gave Les Uretz an award for efficiency for creating new labor-saving and money-saving ideas. He was one of a number of people that were given a presidential award that year for that kind of thing.

And as I said, he once walked into one of our offices, the one in Austin--I guess when he was vice president, and when he saw some people standing around a coke machine, it disturbed him. And he reminded the director down there every time he saw him, you know, were people still standing around a coke machine? He's a hard worker himself, he drives himself, and people have complained that he drives his staff. But he's never impressed me overly that way. But I guess I'm a hard worker anyway. And it was in terms that you never really minded, at least I don't think you do, as long as the boss is working as hard or harder than you, you can take it. And he does. He puts in long hours. He's interested in the detail. He's interested in the backup behind the generalization.

M: Would you classify him as a superb manager in the sense of business techniques?

C: I would think that he's awfully good. There is--I mean if you have to grade--there are occasions when he's overly concerned with detail. This is both a strong suit and sometimes it's a weak one, because he can't let go of the detail. Once he becomes interested in it, even after it becomes burdensome, he'll hang on. I'd rather have him interested and concerned. I think this is one of the reasons that most of the career government have felt comfortable and worked harder and put out more ideas in this four years or five years than they have before, because they were getting recognition. People

were recognizing the people who really put out. It wasn't just routinely expected. It was routinely expected and demanded, but it was also recognized.

M: What you say, then, President Johnson was unusual in his stress on efficiency?

C: I think so. President Johnson is the only president in the United States who ever had a commissioner of Internal Revenue come to a cabinet meeting. I suspect a lot of other people come to cabinet meetings, but the only president of the United States who--well, he had me bring the staff over there five years running every year. We have a staff meeting here once a year with my top staff with the regional commissioners and district directors. We're regionalized. The regional commissioners come in once a quarter, and we discuss national problems, coordination, *et cetera*. And once a year we have not only our regional commissioners but the head of each office in each state come in. In every instance, he invited us to the White House.

M: This was just a reception--?

C: No. We sat, and we talked. He generally talked to us for as much as--well, one year he was rather harassed--it was about twenty minutes--this last time it was about an hour. I said a few things, and he told us a few things. He might have asked a few questions.

M: Is the purpose of this kind of thing to gain information for him or--?

C: I think it was really two-fold. It was to express an interest in what he considers to be one of the most vital functions of government. After all, the Revenue Service has more contact with more people than any agency of the government except the Post Office, which is a rather passive contact. Ours is more than a passive contact. And one of the things he continually stressed throughout all these meetings was tact and courtesy and

service in addition to efficiency. Efficiency in and of itself wasn't enough unless it carried with it a humaneness that people could recognize [and also] the voluntary nature of our society. And I think it was important. These people--you could see them rise to the occasion. You could see the level of the attention of the managers who went to these meetings rose as they were continually exposed to this.

Through this, as last time, the President said, "I'm not talking to you hundred ugly men out there--I want you to get this message out. I think you ought to make these remarks available to the field." So I've just had them edited down, just for size, because he talked quite awhile, and we're going to send a little memo out to all the field people so they can see what the President said about them because he really wasn't talking about the hundred of us; he was talking about the 65,000.

M: Did it help the morale of your organization?

C: Sure, sure it did. I mean, it helped them certainly in contrast with other people they know. Their counterparts in other agencies were not getting this attention. He evidently felt this activity was an important activity. It was illustrated when Caplin was commissioner. I asked since he had no special relationship with the President, and the President was new--it was in February of 1964--I asked the President, and he received us.

Kennedy had come over here. He was the first president to ever address the Revenue group, and he'd come over here and met them in the conference room. And so the President had us over. And then the next year I asked the President. It was my first year as commissioner, and I asked the President if he could have us again. And he was delighted. He said it wasn't any job to talk him into at all. The next year I was upset that

we had now imposed on the President's time. It was either the second time or the third time, I can't recall, and I had decided that I would not call the President's office. I wouldn't call the appointment secretary, Marvin Watson, I guess, to ask or send in a memo, because we now had had the President three years running, and it was unfair to impose on his time like that. So I asked the Vice President if he would come over here and talk to us, and the Vice President agreed. And this was about ten days or two weeks before the group came in.

Within four or five days of the group's coming in, I got a call from the President, and he said he had heard that the group was coming in, and weren't we coming over there this year? And I said, "Well, yes, we'd love to, sir, but I didn't want to impose." "Oh, no trouble, bring them over." So we had real riches that year. We had the Vice President one day, and we went over to see the President the next day.

But I think that sort of shows you his interest. Because I purposely avoided bothering him, and he recalled. Evidently he saw in a memorandum somewhere from somebody that the people were coming in, and he said he'd like to see them. I'm sure when you go through the compilations, they've recorded all of those statements. They usually were private off-the-record meetings.

That's one of the problems the President has. In one of those private off-the-cuff sessions sometimes I'd send him an outline, but he usually expanded on them quite considerably. He was relaxed, he was warm, forceful, not overbearing at all. I once, for the purpose of one of our annual reports, I asked Marvin if I could bring a photographer, and he says, "You know how he'll be if we have a strange photographer in the room." He

said, "I hope you'll take a couple of pictures, but if you bring your photographer, and it's a stranger, he's going to get pompous, and he'll get stiff, and you won't have the same kind of meeting." I said, "I guess you're right; we'd better not do it," which we didn't and sure enough, he was much more relaxed in that kind of a meeting.

M: In these meetings--

C: He has a tendency to shout whenever he gets in front of an audience, like an old-fashioned political orator. I guess you've noticed that, probably if you watch him on TV. And yet if you're sitting across the room from him or at the dinner table with him, he's a very relaxed, charming individual and doesn't have any of that tendency.

(Interruption)

M: We were talking about these meetings that you had.

C: This is one of the characteristics, I guess. My wife is always commenting on it, too. For instance, if the United States could see him at a dinner party in his house or somebody else's house or in a living room where he's relaxed, he's a completely captivating man, story-teller, charming, not overbearing. But he doesn't have a good presence in the presence of a number of people. Put a few strangers in front of him, and he responds completely differently.

M: Why do you think this is?

C: I guess the psychologists will have to tell you that, or psychiatrists. I don't know. Maybe it's that he's basically a shy person. A lot of people tend to compensate that way. Maybe other, I don't know.

M: That would be an interesting theory, Lyndon Johnson is a shy person. He may be.

C: Well, he's a tough man to deal with. Most people, I think, are afraid of Lyndon Johnson because he is quick and powerful, and he won't let go. And if you want to beat him, or if you want to say no to him, you've got to be faster and more powerful and give him facts. Because what he does is he'll ask you to make a statement and then ask you a question, and you'd better answer it thoroughly and incisively because he has got another one coming up right behind it. And he can drive you into a corner. If he wants to go one way, and you want to go the other way, unless you're very agile, he's going to back you into the corner, and you're going to go.

But I've only said no to him three or four times, and I've made it stick every time. And I've never incurred his wrath. Jimmy Symington once asked me, "What do you do when he blows up?" I said, "I don't know, he has never really gotten mad at me. He has been annoyed because I wouldn't do what he thought I ought to do and because I talked him out of it. I know he was not exactly happy, but he has never raised his voice to me." He never to my knowledge said anything bad about me.

M: He must have respected--

C: I think this was part of the reason. The first instance this happened, early in my career out here. The President called and he wanted me to do something. And it was something personal, and I said to him I didn't think it was wise. And he said, "Well, what are the alternatives?" And I gave him several alternatives right on the phone and I said, "But in order to do this right, I'd better write you a memorandum," because I didn't want to get stuck on the phone having to defend that which I hadn't really thought about. I think this is part of the problem, too. So I prepared a memorandum for him pointing out Course A

and Course B, and saying that while Course A was possible and appeared to be what he wanted, Course B appeared to be the better course for the following reasons. And I sent it over to him, and he called me back and said, "Course A." And I prepared the papers for Course A, and I called Jenkins, and I said, "He's making a mistake. How do I talk him out of it? I've tried." He said, "You write your memorandum again, saying here are the papers for Course A, but here are the reasons why you shouldn't do it, and lay it on his desk and give him a chance to think about it. Then if you don't hear from him, you're all right."

Well, I did that, and three or four days, five days went by, and Walter called me up and said, "You've won. He threw the whole thing away. He just didn't do anything."

It happened once again recently where he wanted to do something very badly. He mentioned it to me two or three times, called me at home a couple of times, caught me in receiving lines at the Gorton--

M: Can you tell me about that?

C: No, I don't think so.

Caught me in a receiving line at the Gorton reception, for [Australian] Prime Minister [John] Gorton--right in front of the Prime Minister. He said, "Have you done it yet?" and I told him that I was preparing a memorandum for him. It was something political, and I didn't think the Revenue Service--it was in terms of moving an office to a place that would have carried political overtones, although where our office is located really doesn't interfere in the ongoing activities. But I indicated that it would disrupt a lot of people, it would be obviously political, he had done nothing political in regard to the

Revenue Service in the whole of his career, and I had done nothing of any political nature and that I didn't think he wanted to live in the future for the mild advantage he would have gotten with this kind of thing. I said, "And besides, the worst part of it is that you and I know that you haven't done anything, but every action you've ever taken will be colored by the one action, and in the future should anybody come into my job who wants to rationalize any political motivation, he'll have this to fall back on." And I said, "I know I've been pure, and you know I've been pure, but we don't know what kind of motivation the next guy will have. And if we don't give him an excuse, he'll have a tougher time straying."

Well, I wrote that memorandum, and I never got an answer to it which was fine.

M: So you--

C: Which was fine and again a few weeks later, the President had me over, and we're still friends. I mean he has had me over any number of times since then. He has never raised his voice at me; he has never said anything bad about me. I'm sure he probably was not exactly happy, but I stuck with my guns, and I won. I mean, if he had ordered me to do it, I would have done it, I guess, or maybe I wouldn't have. Maybe I would have just quit. I think that the message that was in the memorandum was clear enough that I probably wouldn't do it. I don't think I would have.

M: Well, then you never had a confrontation with his supposedly--

C: No. With his supposed hot temper, no. And as I say, I've been in government under his direction longer than anybody else that he has appointed. And he had plenty of opportunities to disagree with me.

M: Well, where does he get this reputation? Is it justified?

C: I don't know, I guess it is. I can't speak from personal experience. Jimmy Symington, as I say, once told me, "What do you do when he blows up at you?" Well, of course, that job is a job where he's with him, every diplomat. And I guess if anything goes wrong in one of those receptions, who do you blame? The guy that's closest to you and Symington standing there, or whoever the protocol chief is. So I can't--I mean, Jimmy mentioned it to me, and I told him my experience, and he sort of shook his head in disbelief, but I'm being perfectly honest.

M: Let me ask you one other thing along this same line. Is the President's reputation for crudeness in his talk well-founded?

C: Well, I'm not an intimate of the President's in terms of--he doesn't cuss any more than most men of his age and background that I know. I mean, I'm no more embarrassed than I would be in any other group. He tells a dirty joke on occasion; he uses cuss words on occasion--

M: But this is not shocking to you? It's not that over--?

C: No. I've never heard him use any in front of a woman. He's very, very fastidious about his conversation in front of women. He's very gentlemanly.

M: Well, his detractors like to play up--

C: I don't say that he never did it, and I don't say that he never tells a dirty joke. I've heard him tell dirty jokes, but no more so than any other man--not any other, but many men. Many men who I would not consider crude. But then again, he may respond to different people in different ways, too.

M: Yes.

C: He does like to ridicule. There is--and he's good at it. He's very good at mimicking people in a ridiculous way, and I guess if I was the object of that, I wouldn't feel very good. But you know, it's that same way that Harry Truman mimicked [H. V.] Kaltenborn. He'll do that to famous people, senators, representatives, other people. I've seen him do it to quite a few, but not very many, and again, I say, I'm not really an intimate with him. I wouldn't say that I was.

M: In these annual meetings that you had with your top managers, would the nature of the conversation be more or less an interest in the problems and a discussion of that?

C: Well, laying down policy in the sense. For example, he was exhorting them on the Equal Opportunity Program always. This is one of his pets, and I don't think we ever had a meeting where he didn't mention, "I want you to get more women; I want you to get more minority groups involved both in management and everywhere." He complimented them on their ADP [administrative data processing?] implementation; he complimented them when we were getting some of the results of our courtesy and education programs--he mentioned those. He mentioned that--I mean, independent of what prompting we put him up to. He mentioned that he had gotten letters from people he knew that indicated things were improving. He made them feel like he was really interested. I think exhortation to more efficiency, harder work.

M: It was more than just a management technique to have them around?

C: I think so. It was a little bit of both. You know, it certainly helps. It helps me and it helps everybody else to know that somebody important is interested in your work. And

who else can be more important than the president of the United States? And the fact that he'll take the time. You know, when you've had a half hour of the President's time or forty-five minutes of the President's time, it's an awfully big gob of time for a hundred men. That's all we are. We represent 65,000. We like to think we're the most important, but you know, other people may not.

So just the mere fact that he had you was a morale builder. He did it--at the same time he threw in the programs that he was interested in.

M: He was stressing his policy, too?

C: Yes.

M: In this period while you were the chief counsel, 1964--

C: I really ought to mention how I got--I still haven't told you really how I got to be commissioner.

M: Okay, go ahead.

C: When Caplin went in to resign, which was April or May--he left in July of 1964--

M: Let me get something straight. When you were first appointed, what was your title?

C: Chief counsel. Caplin was the commissioner.

M: Now, before you were appointed commissioner, while you are chief counsel, did you work on that 1964 tax cut?

C: Yes.

M: And does that fit into the story at this point?

C: It does at this point in the sense that it was pending. It was pending when I came on. Of course, some of it had started in 1963, but my Legislation and Regulations Division in the

Chief Counsel's Office did much of the drafting--the technical drafting again--so I was in on that. I was in with the Secretary on the policy meetings when President Johnson wanted us to get out. I mean part of this was an educational campaign that Congress--every time we ran into a congressman or member of the Ways and Means Committee or Finance Committee, you know, we were told to talk it up, to explain it, and I spent some time with George Mahon explaining the benefits of a tax cut even in the face of a deficit which Mr. Mahon had initially been opposed to, but eventually came around.

M: Did the President have a thorough understanding of the economics--?

C: Yes. It didn't come from me. It came from really Gardner Ackley and the Council [Council of Economic Advisors] and probably from Dillon. He grasped it. I think he accepted it. I think basically he would rather have spent some of that money. My own point of view is that this same economic effect would have occurred if you had spent the $20,000,000,000 you were cutting taxes. And I saw enough need that I would rather have spent it. For example, we were taxing people below the poverty level. I would like to have stopped that. Now we did, when we engineered some of these things--the minimum standard deduction for example was designed to throw more than a proportionate amount into the lower income groups. But nevertheless, they were really across-the-board cuts. Part of the problem is Congress bought most of the reductions and jettisoned many of the reforms, not all of them, but many of them. So it was not a complete success. A lot of us like to portray it--particularly when you talk to the people over at Treasury--I think they'll portray it as a huge success in the context of reform and

reduction. But most of the reforms we lost.

Now we cut the rates. I mean the rate reductions originally were supposed to be larger, and we were going to have some reforms to make up some difference. So when they jettisoned some of the reforms, we adjusted our rate reductions accordingly to try to make the economic effects about the same.

But most of this was underway. Now, I could tell you that I think the difference--I think this is historically accurate, the difference in having President Johnson in the office was the fact that it would not have been passed otherwise. Kennedy would not have gotten the bill. I don't think there's any doubt about that.

M: Why?

C: I remember having lunch one day with Senator Paul Douglas in his office. He asked me up to get acquainted really, and we were friendly because he had known me from before. And Jim Simpson that I mentioned to you was a close friend of his. He had been a close friend of Stevenson's so they knew each other, and I knew Stevenson, so there was a close rapport. And Paul Douglas told me, he said he voted for the tax cut for President Johnson; he would not have for President Kennedy. And I said, "What's the difference?" He said, "Well, when Kennedy proposed it, he invited me up to the White House," for lunch or for breakfast, "and he gave me all of the intellectual arguments in favor of the tax cut." Paul said, "I'm an economist, and I disagreed. I thought we ought to spend the money on the cities and on some of the other problems we had, and therefore I was going to vote against it. I thought we needed, you know, we could accomplish the same economic result in a more constructive way. Kennedy made all of these arguments to me

and at the end of the conversation he [Kennedy] said, 'Paul, you know you really ought to do this.'" And he [Paul Douglas] says, "I decided, intellectually, I couldn't do it, and therefore I didn't."

He said, "When President Johnson came in, he invited me up," for breakfast or lunch; he told me which but I've forgotten. And he said, "He went through exactly the same arguments--the arguments hadn't changed--at the conclusion of which he looked at me and he said, "Paul, you've got to do this for your country, and I need your vote." He says, "And that was the difference. I did it," which was almost the same thing he said to me when he wanted me to come to the government. "I need you."

Now in terms of Senator Douglas, [he] says, "That puts him in my debt." He says, "And that was the difference. Kennedy wasn't willing to do that. He wasn't willing to put his prestige on the line. If you say that and the guy says no, you've lost something." And he said that Johnson was willing to risk it. He said it was a gamble; he thought he could make the gamble, he did, and he won. And he said, "That was the difference; that was the difference." He said he was sure he did that with other people, too. You may give up a chip that way.

M: The important thing here, though, is that, as you have pointed out, Lyndon Johnson is setting up an I.O.U.

C: Right, and he was willing to take the time, too. It was a tremendous expenditure of time and effort that goes into this sort of thing.

M: It's not just an emotional appeal, is it?

C: No, you can't do it on emotional appeal. You've got to sit down and explain it to each of

these. He said to make sure the rest of us at the Treasury, Dillon and the undersecretary--Joe Fowler at the time--and the rest of us got out, and every time we went in to see a member of Congress on anything, we were supposed to talk it up. It was a real effort. It was a real, you know, gung-ho effort. And I think it took that. And we made it. We talked a lot of people into it who had never--you know, who were anti-deficit or anti-tax cut or the conservatives or the liberals were against it for different reasons. Now of course, it was during that euphoric period when everybody was pulling together. That helped, too.

M: How about the budget cut? Did that help?

C: Psychologically, I think it did.

M: In the books the tax cut and the budget cut are usually discussed together, as if they're two sides of the same coin.

C: Uh-huh, you see he indicated--I think that was the year he held the budget below $100,000,000.

M: That's right.

C: Although it was expected to go above. And he really did, I mean most of the people sort of indicate these things are phony. If you have to operate an agency like this, it's no phony when you have to squeeze, when you have to cut, when you have to do without things that are necessary, or certainly important. It's tough. It's tough. And he went through that budget line by line himself.

A few years later I was able to go straight to him to have some items restored that I felt were necessary. He was accessible, you know, if I needed him, you know if I really

had to go to the mat.

M: Did the tax cut work as expected?

C: I think it did.

M: You didn't get the reforms you set out for?

C: We didn't get the reforms we should have gotten.

M: Any specific reforms?

C: I think maybe this is because we sold out a little too cheap. You know, again it's a question of competing powers. I'd have to look back at the books now, but you know there were some reductions of certain kinds of deductions and elimination of certain kinds of benefits we were shooting for, and we got partial success.

M: Was there any kind of criticism that you were favoring the wealthy and things--?

C: There were, but I think it was a reasonably balanced package. As I say, the biggest lot of the benefits went into this minimum standard deduction, which had a great deal of benefit for the poor or marginal families and eliminated a number of them from being taxable altogether, a great many of them, which was helpful. And it was simple to apply. And I think it was the kind of thing, if I had anything to do with tax policy in the future you'd want to liberalize it in order to help the lowest end of the spectrum without giving too much, if any, benefit to the upper end of the spectrum.

I started to tell you that in the spring, late spring, Caplin wanted to resign. He asked me. I said he ought to stay on until the end of the year since it was only another six or seven months until election.

M: Now this was the spring of 1964?

C: This was the spring of 1964. But he thought--he'd been here three years in the change of presidents, and he didn't know how the election would go the next time, so he told me he was going to resign. In fact, he went over to see the President and did resign effective, I think, July 1, or thereabouts. I get this conversation second-hand, but it was all repeated to me within a couple of days.

As I told you, I considered myself having reached higher than I ever thought I would reach, and I was completely happy, and I was busy as heck trying to get the office straightened out. And when Caplin resigned, the President asked him did he have any thoughts about who might be a good man to fill the job. And I gather Mr. Caplin had two names that he suggested and mentioned. The President took them down and said he'd look into those. In fact, I think he had one of those people in on a later interview. The President is reported to me to have said, Jenkins told me, "How about Sheldon?" And Mr. Caplin said I was pretty good, I think, but I was awfully young, which was true. I was thirty-six years old. And that was the end of the conversation. The President said, "I guess that's right. He is awfully young." And this was all reported to me within several days.

So I never really harbored any hopes of being commissioner, but if I had harbored any hopes, that would have killed them. And from time to time, Walter Jenkins or one of the other presidential assistants or the President himself would mention a name of somebody who had been suggested as commissioner. "What do you think about--" or "do you know--?" Sometimes I would know him, and I would be able to give an opinion that was good, bad, or indifferent; sometimes I wouldn't know him, and that would be the end

of it. This went on for a period of months.

And in about the fall, I guess the late fall, rumors were all over town that I was going to be appointed. And I knew they were false.

M: Had Caplin left by this time?

C: Caplin left in July.

M: So who was acting--?

C: The Deputy Commissioner was Bert Harding who is now the Acting Director of OEO [Office of Economic Opportunity]. And I ought to tell you how Bert got that job, too. That's an interesting bit.

So there were rumors all over town that I was going to be appointed commissioner. I knew that they were false; I didn't pay any attention to them. It was kind of a joke with me. And I guess the first thing I really knew was when Walter or the President, I can't remember which, called me and said, "The President is going to appoint you."

M: That must have been a shock.

C: I was sort of made aware of it because I gathered for awhile that they began to consider me, sort of in October or November. They never asked me, I never got a call, "Are you interested?" or "Will you do it?" "You're going to be appointed." And that's how I became Commissioner of Internal Revenue.

I should have gone back--and this is kind of a sensitive story, I don't know whether--again it's hearsay, so I don't know how much hearsay we ought to--

M: Qualify it as hearsay.

C: It's a heresay story that goes that when Dillon said that I was all right and said that there was one problem, that they'd been getting a lot of nasty notes about the number of Jews involved in taxes particularly, Caplin being Jewish, [Stanley S.] Surrey's ancestors being Jewish--he's not really a practicing Jew; neither was Caplin. There was an assistant attorney general in charge of the tax division in Justice by the name of [Louis F.] Oberdorfer, who is not a practicing Jew either, but who was Jewish. And people of course--some people go back--Dillon's ancestry and--although they haven't been Jews in several generations. They were getting these nasty, you know, these crazy poison-pen letters that mentioned the fact, "There's another one in the tax field." And the President is reputed to have said to Mr. Dillon, "Which one of them would you like to go?" which indicated, you know, he didn't give a damn about it one way or the other. He was just saying that, "I want this man in the job and what his religion is doesn't have a thing to do with it." I don't know that that ever happened. This was repeated to me by a staff member at the White House.

M: You have never run into any anti-Semitism during your government work?

C: Not in my government work. You get these crazy right-wing kind of pieces. You get those all the time. No, I've never in my whole government career, whether it be at the staff level or here, I've never had anything but complete acceptance, no problems whatever. In fact, one time somebody at the White House called me for a meeting with the President, on either Rosh Hashanah or Yom Kippur, one of the Jewish holidays, and I mentioned that I'm not normally in. Oh, and then he apologized profusely and said, "No, we'll make it another day." Particularly, the President has been completely oblivious to--I

think, you know he's really, to my knowledge, he has always in any appointment that he has made, or any appointment that he has ever asked me about, none of that has ever entered. He has always said, you know, "I'll give you three names; who do you think is best?"

M: He was interested more in the talents?

C: The quality and drive, you know, who's going to accomplish the job for me?

M: Well, was there a formal announcement of your appointment?

C: Formal announcement of my appointment? I can't remember. I think it was December 28; it was within a few days of the one the previous year--the formal announcement. This time, since it was a higher office, I could have had a recess appointment again, but since I was on the government payroll and the difference between my salary and the commissioner's salary is only about $1500, there was no sense to it. And my confirmation hearing was January 15 or 19 or something like that. I was sworn in on the twenty-fifth. In effect, I was almost acting commissioner right away because I was in the building; the deputy commissioner and I were and are good friends. And so although I stayed in my own office, I didn't move in the commissioner's office, in effect, they didn't do anything of major consequence without talking to me.

M: When did the wiretapping problem arise?

C: Almost right away.

M: Just as soon as you were commissioner?

C: Just about. Mr. Harding continued as my deputy commissioner at first. If there's a better manager here in the government, I don't know who he is.

M: Before you get into the wiretapping, you might tell me about Harding's appointment.

C: That came really a year or so later. But the President was completely happy, I think, with the way [Sargent] Shriver was running the Peace Corps and was completely happy with the way he was running the OEO in terms of ideas. But Shriver really wasn't a manager. Shriver was an idea man and a good one, and a good articulate spokesman. But he had a tendency to manage from his hip pocket, which meant he couldn't be. Nobody, when you're running an organization that gets as large as that, can run everything. You can't keep track of it. If I tried to run everything in the Internal Revenue Service, nothing happens. You get frozen because everybody waits for you to make a decision. You can't assign two people to do the same job. They just will step all over each other in confusion. And while Shriver was really achieving something, inspirational leadership and ideas, he was lacking in follow-through and organization.

And when Moyers went to the White House, I guess, maybe not--I guess there was no first deputy director; they wanted somebody to really manage the place as an institution. There was a committee set up of Charlie Schultze and John Macy and Bill Moyers to find the best manager in the government. And they had three or four names, and they called me and asked who would I suggest. I said I can't suggest him because I lose him, but Harding was the best manager in the government. And they interviewed them all. Before that, they wanted a study, a management study of OEO, and I had suggested Harding to do it. And they had, in fact, formed a committee with a guy from the Bureau of the Budget and a guy from Civil Service and a management man from OEO, and Bert was the chairman. And I suggested, he's your man. The President

appointed him. Shriver, I think, accepted him, and they got along pretty well.

Then this was, you know, a Grade III presidential appointee, Class III or whatever they call them, fairly high position. Career government guy, Bert's twenty-eight years in the government, never had a political job, and I guess he would consider his job now as not political. He was just going to run this place as best he could.

So we're back in January. Long, Senator Edward Long from Missouri, had submitted to the Revenue Service some long time before--actually the Treasury and to many of the government agencies--a questionnaire on so-called invasions of privacy. And it was a long, detailed thing, very elaborate, and it had been answered, I think, long before I arrived on the scene. Although there was a good deal of sparring around because he never asked for a report from the FBI or the CIA or, I guess, from the Secret Service, and there are certain security aspects of all the narcotics. But he bore in on the Internal Revenue Service. He wasn't going to let go of the Internal Revenue Service. This was all, as I say, before I arrived on the scene.

The report went back, and it reported that at least five or six instances that occurred--he had asked some time span, five or six years. Although he publicized that the report went back and said nothing had happened, in fact that's not the case. The report went back and it reported five or six instances of unauthorized activity, most of which had occurred several years before, and there had been disciplinary action of some sort that followed. And that's the point at which I become commissioner. Senator Long indicates that he's not satisfied with the response, and the Secretary and I went out and talked to him. And I say, "You say you know about it; I say that you haven't told me.

You'd better tell me what the instances are and let me investigate. Here I am brand new on the scene, and I don't know anything. I couldn't have had anything to do with it. I'm willing to make an impartial investigation, and it's not going to happen under my jurisdiction." But I can't shoot fish in an ocean, you know. I need a barrel to find out where--what's my problem?

And there was a good deal of sparring around. He may have been genuine, but I had always had the feeling he was disingenuous, and he was doing it more for publicity than he was out of principle. His counsel was a guy named Fensterwald who was a very able guy, a tremendously able guy, who reminds me of Van Allen if you remember *Advise and Consent*.

M: Do you remember Fensterwald's first name?

C: Bernard, He reminds me of Van Allen in that he's the [Joe] McCarthy-type of the left. Basically his instincts were the same as mine. On most issues we'd come out together, but he was just as vicious in carrying forth as anybody I would dislike on the other side. His ethics and morals were not of the highest in my own personal opinion. And that's why this stuff will all have to be under wraps because that's libelous.

So I did some more probing back here, and finally he told me that we had some problems. He said, "All right, we're going to hold our first hearings in Pittsburgh. There, I'll tell you the problems." Well, I indicated to him, you know, the best way to proceed in this thing would be for him to say, "I'll give you six months. I want you to clean up whatever exists and then come in and investigate me if I haven't done it. If you investigate me now, I don't know what to do."

"No, we've got to burn this out with publicity--the way to burn this out," which indicated to me that there was more to motivation than purity.

Well, I sent an investigating team out to Pittsburgh to find out what the problem was, and I also spoke to the regional people myself in Philadelphia. And the chief of intelligence in Pittsburgh came down here and he told me, he leveled with me. In a four or five-year period there had been four incidences, either wiretapping or bugging--four! Given the fact that there was wiretapping or bugging, I was kind of shocked by that, but given that fact, I was pleased that while the guys had gone haywire, they weren't crazy. They had never used it except in a very aggravated organized crime-type case, I mean really vicious kind of crime. That doesn't excuse it, but it does at least make it understandable. They had never used it in routine-type tax cases, even in routine-type criminal cases. They had only used it in organized crime cases. And this fellow's name was Cress Davis [Chief of Intelligence in Pittsburgh]. He has since died of cancer. I told him he was a hero, he really was, because we would have been crucified if I hadn't known. You know, we would have been naked. And he told me the four instances, and I dug and dug and dug, and there were no more.

One was a police lieutenant who had sold quadrants to the City of Pittsburgh to the gambling interests, you could buy a quadrant of the city for $25,000 a year. There were two or three others.

I then had a synopsis made of each of them with the names eliminated, but the facts [were] there. And I went up to Senator Long, and I said, "I'm going to prove to you that I'm doing a job. You're going to go to Pittsburgh. You're going to find four

situations. Here they are." I said, "Now, I think this proves that I intend to do the job. If you tell me any other leads you have, I'm going to dig, and meanwhile I'm going to send an inspection team out to Pittsburgh and to other places to try to dig this out. But to have public hearings at this point, you know, are going to impede me in making my own investigation. They'll scare everybody, and I want to assure these people that if they tell the truth, we'll do the best we can to mitigate the thing."

He said, "Well, you shouldn't punish them if they tell the truth." All right, at least I had that agreement out of him. The most important thing was to protect the people's [taxpayers'] rights. It was more important than punishing our people who had done wrong, because if I immediately punish the first guy I found, I wouldn't find any more. And therefore, anybody's rights which had been infringed would never be discovered, and I would have accomplished nothing. He did agree with me on that, but he wouldn't agree with me to let me run the investigation. I told him, "All right, I'll be honest with you. Any time you tell me about an instance, we'll investigate it, and I'll tell you."

So every instance where his investigation brought out a case, we had told him about it in advance. In other words, the revelations, the startling revelations, that were brought out were all cases that we'd gone up and told him about.

M: He didn't bring out any?

C: None of this was brought out. Now I did put out an order immediately on my discovering the first instance. I put out a very clear order which every agent involved in any criminal investigation had to receipt for receiving that indicated he had to report every case he had ever been involved in, in which case no action would be taken against him if he did. But

if he ever did it again, or if we found any case where he had done it and he did not report it, his neck was going to be cut and publicly.

M: So you had a full disclosure from your own people?

C: Yes, that's right. And the Justice Department agreed to this, and we revealed it to the courts; I revealed it to the U. S. attorneys and anybody that was involved. And my order is in the public record; it's in his hearing record. And he agreed to--I told him what I was going to do. I told him that this was the only way I knew to burn this thing out and get it over with once and for all. And really in my own opinion the hearings beyond that were just a circus because we'd done it. I mean, it was over. He tried to portray the hearing rooms as bugged--that was nonsense. They had tape recorders installed in hearing rooms that were used in organized crime cases because when they interviewed these guys, they wanted a record. But they had never used tape recorders or any other kind of devices in any hearing room involving anybody else. But he sloughed over--there was much of this hearing which I feel was disingenuous, because they constantly tried to meld in the kinds of areas we did it in with the generalized areas, to scare people, to make it more sensational. That's my own opinion. In fact, somebody objective will have to view. I may not be completely objective.

Now I insisted at the first open hearing that he was going to call me as a witness. He wanted to call the agents from Pittsburgh. I said that I would insist on appearing as a witness. He said he would not call me. I said, "If you do not call me and your hearing is at ten o'clock on Monday morning, I will have a press conference at nine-thirty on Monday morning, and I will make my opening statement that I would make at the

hearing. Because they think I'm responsible. I wasn't here; I wasn't responsible in the sense that I ordered them to do this, but I'm responsible for this agency, and I've got to stand up with those fellows."

And he called me as a witness. Attorney General [Nicholas] Katzenbach went with me. And he didn't have to. I think he was magnificent to have volunteered to set the context in which it occurred, so that the general public didn't get the impression that, you know, every revenue agent was wiretapping. If you wanted to do it, you couldn't do it. It's a terribly expensive, time-consuming project. I don't know what your instrument costs, but those damned things are expensive. And they're expensive in terms of manpower to man. You couldn't do it but in a handful of cases anyway, if you were going to do it.

So he reluctantly called me as a witness, and at open hearing he had demanded that I supply the diaries of the agents involved, Special Agents' terms--investigations, criminal investigators--they keep diaries of all of the information they learn, and I refused. I said number one, it was a fishing expedition; number two, it would cause a breach of the relationship between the executive and legislative; number three, from that day forward, no agent would ever keep an honest diary. He would always be looking over his shoulder--what would someone think if he saw this--I mean innocuous things; and number four, they contained confidential tax information, which, by statute, I could not reveal. But in any case in which he thought that an agent had done something wrong, if he would tell me the agent's name and the period of time during which he thought the agent had done something wrong, I would show him the pages of the diary with any

confidential information blanked out. He never took me up on that because he constantly used this as a sledge hammer to try to blackjack. You know, I was holding back the diaries from him--I was holding back the files from him. And in fact, he wrote to the President and asked him for an executive order which would have given him the right to look in certain of our things. And I was sent to speak to him. I responded to the letter, which was a clear indication to him that the President was going to back me up, that the files weren't going to be opened to him.

Now this [Jimmy] Hoffa stuff and all that came out later in the series of articles in *Life Magazine*. The strange thing is--I can swear to you on a stack of Bibles and I've sworn in open--we did not reveal the stuff. The people in *Life* are good investigators. I think there are other people who knew about it. The interesting thing is we didn't reveal it. It's pretty obvious to me that nobody in our staff would have revealed it because we knew more and we knew less. That is, we had all of his returns, and there was much more than what showed on the record that they had. And number two, they had the detail. The returns don't show the detail. The returns only show the amount, but it didn't show from where it came or any of the details. Our people didn't know that. So that they obviously got it from somewhere else. Somebody's secretary talked; somebody's bookkeeper talked; I don't know who talked. I have no idea. But he always blamed me. But it was pretty clear to me that our people didn't do it because I knew what our people knew. We had not started an audit of his return at the time, so that we couldn't have known anything more than what showed on the face of his return.

It went on for quite some time. Each time we had a confrontation I had told him,

you know, "Look, I'm telling you the facts; there isn't any more. I'll take responsibility for clearing it up. You want to draw and quarter me, go ahead, but don't take on these little guys. They can't stand and fight for themselves." There was one instance where we were running a drive down in the southeast United States called Operation Dry Up. Operation Dry Up was an attempt to stamp out illicit liquor.

M: This was a concentration on that state?

C: Yes. In past years they'd used the regular investigative technique of arresting people, breaking stills, and so on. And we decided that this had held it in check, but it never really curtailed it. You know, it didn't expand, but we didn't contract it either. And that we really ought to try something new. So we picked South Carolina, because the South Carolina police were very cooperative in a small confined area where we could experiment. And we threw in extra manpower. But at the same time we enlisted the medical association and the state police and the radio and TV networks, the stations down there, to dramatize that most illicit alcohol is made under unsanitary conditions, contained lead salts which is poisoning and blinding; and we hammered away at that. We got the medical association to endorse a program, a radio program that we put on. One of our fellows went out to Hollywood and got Edward G. Robinson and Bob Stack and a bunch of the Hollywood stars, and Andy Griffith was a great one, to make little thirty-second spots or one-minute spots on why they should not use illicit alcohol. One guy made a--a Negro entertainer made a spot that it was prestigious to drink legal alcohol--I mean, we were trying to hit this thing from all angles. And we really were successful. The state authorities were pleased. The state tax authorities were pleased. For the first

time, we saw illicit liquor guys going into legitimate jobs. They were going out and getting jobs. We were drying up the demand. It was much better than the other way.

M: Instead of hunting out stills, you--

C: Well, we did both. I mean, we did the first for a splash effect. You know, to make people aware of it. We kept that up, but we hammered away at this other thing.

We had a kid down there; we didn't have enough public information personnel. Part of this, you know, you had to keep hammering away at the newspapers, radio stations, TV stations, to play this kind of stuff up. You had to go out and solicit their cooperation. We had a youngster who was a regular alcohol and tobacco tax investigator, and we were looking for people who would be interested in working with the media. So we got this kid, he was interested, and he developed a program called "The Investigators," a radio program which portrayed cases of actual alcohol and tobacco tax investigation. And it was a corny program, but it made a hit. The youngsters were listening to it--we had kids calling in and turning in, you know, telling us, "There's a still around the corner." It got the kids excited.

Then we wanted to expand this beyond the state, so we were taking this kid, and we were using him to train other of our investigators in other states. And he had a meeting in which he was talking up the program. And he says, "Our program is--it's better than *Batman*, you know." And in this discussion he said, "We've got to brainwash the public." And his next sentence was, "Into the evils of using illicit liquor." "Brainwash" was a bad word. And he was talking about using the media. He talked it up, and then his supervisor thought this was such a good talk that he gave to these people

informally that they tape recorded it, and they had it reduced to writing, and they passed it out.

The content of it, if you read it in context, is great. His choice of words was not so good. Long took out of context, "We've got to brainwash the public." You know, the Revenue Service is "going to brainwash the public." And they even accused us of being in cahoots with the legal liquor people, trying to make the sales of legal liquor. So what, I mean, that's my job. I supervise liquor and alcohol production, too. We do. He wanted to subpoena that kid. And I told him that as far as I was concerned, the Commissioner of Internal Revenue wrote that memorandum and so did the head of our Public Information. And if there was anybody responsible for those words, it was me. You put me on the stand. Well, he hit the ceiling. He went all the way to the White House again, the second time around. This time Watson said, "I don't want to let him go to the President. Can you placate him?" I said, "Well, I'm not going to give him the kid. He's not going to put that kid on the stand and crucify him." This was really Fensterwald that was doing this.

So finally I called Long, and I said, "Now, look. Isn't this all a silly business. You put all this in the *Congressional Record*--put it all in the *Congressional Record*, the memorandum." I said, "This kid has done a remarkable job. I tell you what I'll do. I'll bring that kid up from Atlanta, and I'll let you interview him, but you alone. I'm not going to let Fensterwald at him. And you interview him as long as you want. If you want me in the room, I'll be in the room. If you want me out of the room, I'll go out of the room. And if you think there's anything venal in this, you put him on the stand. But if the kid did his job and he used a choice of a couple of wrong words, let's forget it."

So we brought him up, and I represented the kid. I was his attorney. I went up there, and we sat in his office for an hour. And it was a good, clean-cut young fellow who was trying to do a job. And he put some more nasty stuff on the record, but we forgot it. I got tromped on like this regularly. I told him that I would make a complete report at the time he stopped holding hearings. I told him I was through laying out cases for him and then having him stomp all over me. I said, "Go find your own," at this point. "I know all of them. I know every one that I think has occurred in the United States. There are a handful." I said, "If you want to waste your time and resources, you just go around. But I'll make a report when you tell me you're going to stop your hearings, because we've stopped it. There hasn't been a case to my knowledge that has come up since then. And it's just a, you know, terrible waste of time and effort."

So we went on like that for months. Then he was about to stop and then he found out his own tax return was chosen for audit. He felt we were being vindictive. He started all over again. So eventually I made the report, and that was the end of it.

Now there was, you know, there was introduced into the *Record* a mimeographed Internal Revenue Service report that people have alleged sort of indicated to people that it was all right. You could read it either way. Mr. Caplin signed it. Mr. Caplin tells me he didn't know, and I believe him. It said, you know, "Organized crime is cancer," and it had all of that and said, you know, "We've got to use every device at hand to go get them." Now people say that was a signal to use these devices. As I indicated the number of instances was so small that it couldn't have been a general license. There are some people who said the organized crime section of the Department of Justice encouraged it.

Some people said Bobby Kennedy encouraged it. I don't know. I wasn't here when any of it happened, so I can't say any of that first hand. All of those things have been accused, but I have no knowledge. Both Kennedy and Caplin assured me that it never happened. I mean, that they never encouraged it to happen.

M: I have a few points to clear up. Did you have authority over the witnesses from your organization?

C: Yes. An IRS employee cannot testify anywhere without my specific permission.

M: So you can control--?

C: That's right. That's right. I can be held in contempt.

M: Yes.

C: But only me. But he was operating under my orders. And I told Long that. I said, "You'll have to hold me." There were a couple of times when he called up when a witness would refuse to testify because I had instructed him not to. And once in the middle of the morning they called me and said, "You've [You're?] being demanded." I said, "Well, that's all right, I'll go up there." I went up there--and you really ought to read the record. It's an interesting record. My statements before there--I just told them, you know, "Senator, you're not going to get access to this," over and over again. I said, "The Executive Department can't run if you're going to go into this sort of thing."

M: Is the story true about you and the barber shop and what you said about Long? That this got back to him?

C: Yes. It's absolutely true. I was sitting in the barber shop one morning and the barber said, "Have you seen *Playboy*?" Long had a piece in *Playboy*. And I said, "Oh, that son-

of-a-bitch!" just like that. Two days later, I got a call from Long and he said, "Sheldon, you shouldn't call me nasty names." And I said, "Senator, I'm sure that I've said worse than that about you when I was angry," and I said, "I'll bet you've said that about me," which sort of took him back. He wasn't ready for that. He indicated he was going to call me at a hearing and ask me. I said, "Well, if you call me at a hearing and ask me, I'll say exactly what I said, and I'll say exactly what I just said," because, you know, I wasn't going to fold on him.

M: Do you have any idea how he found out?

C: He said there was another senator in the barber shop. That's not true, because I know I would have recognized--I don't know them all, but I--and the barber is a good friend of mine. He said, "Now there may have been another customer in there who knows somebody, and it may have gotten out." But I don't think--I don't know--

M: But it does seem unusual in a wiretapping situation.

C: Yes, that's right. And it was just, you know, a response to a--"Have you seen?" and I was mad--because his piece, if you read it carefully, was not 100 per cent accurate, to say the least.

M: What was the origin of this Operation Dry Up? Whose idea was that?

C: It really came out of our Alcohol and Tax Division people. We had a new director who had some good, good ideas. And I encouraged him; I tried to get them extra manpower and made a special presentation to the Appropriations Committee--

M: This was while you were--?

C: Yes, I made a special statement before the Appropriations Committee and asked for more

manpower for that effort. And we have since tried to put more manpower in that effort. It was a helluva thing to walk into, come to think of it. Somebody asked me how did I stand it. I said, "It's like the farmer lifting the calf every day. All of a sudden you're carrying around a bull on your back and you don't realize how you got it there." If you'd told me I could have done it, I would have said I couldn't, but it came on gradually.

To my knowledge, we haven't had a serious problem since. There was one minor problem where one of our people, an undercover man in the agency, in the numbers racket, had an extension phone put in that probably was close to the line--the phone taken out because it wasn't a wire--it was his own phone in his own room, and he had an extension phone on which another agent was listening. He thought he'd make the case without that--

M: Was there some kind of problem at that same time over withholding taxes?

C: Well, I should have mentioned that the President--the first instance of this I told the President, I went over and had a long talk with the President. He was very vehement in saying that this should never happen--he didn't take me to task. It was just the general context and he was saying that he'd been a life-long believer in civil liberties and that this was evil; that once it was started it was hard to draw lines, and one couldn't control it, and therefore, wiretapping certainly was never to be used. Any kind of eavesdropping was only to be used in completely legal situations and then only in extremes. And he was clear as he could be on it, and I supplied him with copies of instructions I sent to each of our agents, and he told me he thought that was adequate and really covered it. He did sort of keep in touch. I talked to him two or three times.

In fact, the picture right over there was taken the day that--the one where he and I are leaning toward each other--that was the day I briefed him on the situation. We can look at the back of the picture and find out what day it was if you're interested, I usually put the date on them. June 10, 1966. That was the day I briefed him, I guess, on the end of it because the beginning of it was 1965. This was a briefing of how many times it had happened, what we were doing, you know, what we had--because in the early days was early in 1965 that I told him--

M: That picture was June 10, 1966?

C: That's right.

M: Was there something to do with a problem on the withholding tax?

C: Oh, the withholding tax. Yes. When they reduced the taxes in the 1964 act, the reduction took place in two steps, one in 1964, one in 1965--about half each time. But since the act wasn't passed early enough in 1964, they only adjusted withholding rates once instead of adjusting them each time, because the employers would have had to change their bookkeeping techniques twice. It's an expensive proposition, not terribly expensive, but annoying for the employers to have to regear their bookkeeping machinery and computers and so forth, and it wasn't for a full year anyway. So they just changed the withholding rate to match the 1965 rate, not the 1964 rate. So there were a number of people in 1964 who were under-withheld on that or came out even or had small refunds. Now, there were a lot of political accusations. I don't think there was really much politically involved in it; I think it was one of those technical things that--the President knew nothing about it, or if he did, he knew very little about it. It was probably made at

the secretary's level or the assistant secretary in charge of tax policies level. In any event, we were pretty well aware of this right from the beginning, you know. And we announced early, announced as soon as the thing passed that everybody ought to take a look at their estimated tax or their withholding because these things may occur and you might want to adjust your withholding or your estimated tax. We did this sort of thing in 1964.

We got to April 1965. Many people had not, in spite of the fact that we had announced back in the fall, you know, "you really ought to take a look at this," many people had not done it, and there were going to be a lot of people who might owe a few dollars--not a tremendous amount. I think the average family couldn't have amounted to more than about fifty bucks anyway. But there was a little bit of flak. And I announced early, and I told the President that I was going to do this, that we would be lenient in the collection process of any amount that was attributable only to this. That is, we knew--you know, you could tell within any wage bracket how much was attributable to this, how much was attributable to some other problem. And we put out a press release to that effect, and we instructed our offices to work out payment arrangements. In fact, there was very little problem. Very few cases arose, very little problem arose. The Republicans, Senator [John James] Williams particularly, used it as a political weapon.

It gave me a good opportunity, however. I suggested to the President when we discussed this once on the phone that we had done some research, had done some before I came and had done certainly a good deal after I came--I'd talked with him about this. We had done a good deal of research on a better withholding system that would more nearly

equate to the amount owed. The old system was a flat rate, 17 or 18 per cent, regardless of your wage bracket. Now, that over-withheld on people in the bottom bracket, and it under-withheld on the people in the middle and upper brackets. And we had designed two or three systems, and I told the President that we could design a system that for most people in the country would come out within ten dollars of their actual tax. And he said, "That sounds great," and a week or two later--I guess it was when [Horace] Busby was the cabinet secretary--I remember Buz called me in and told me the President would like me to come to a cabinet meeting and describe this to the cabinet. And I went over there, and I described several--I described withholding systems, this aberration, and how we could design it--graduated withholding system; described how our new computer system was working, and I described several other things about the revenue system. And we had a--there was a press conference afterwards.

M: This was the occasion for the Commissioner to--?

C: This was the first time. It never occurred to anybody's knowledge.

M: You seem interested in improving tax forms.

C: The President expressed a great interest in this, too. He once asked me, "Isn't there a better way to design the tax form?" We ran a very extensive--and I told him I was going to make the best effort I could, and I took a group of researchers, some good researchers, and I said, "What haven't we tried?" You know, our tax form is basically an accounting document, and I think that's probably its strong suit and also its weakest. It scares everybody. It's not that complicated, but it overawes them when they look at it. And I said, "What kind of design could we get that people are used to that would--?" And we

studied, and I worked with them myself a little bit. And we decided that most people were used to a questionnaire. And you can blend into a questionnaire tax form instructions so that you don't have to go to an instruction book. You just blend in a couple of sentences and then ask a question. Blend in a couple of sentences of instructions so that, for 75 or 80 per cent of the people, it would be a self-contained document. Wouldn't have to even look at an instruction book. So we spent a good deal of the time--and I kept the President informed of this. He was interested in this. And we designed a questionnaire form that looked pretty good to us. The trouble is that it takes much more space. It takes about six pages instead of two. Then we hired the University of Michigan Testing Service and said, "You know, we think it's good, but what do people think? And we don't want to run the test ourselves because we don't want to scare people. We want to get a natural reaction." So we had the University of Michigan opinion-testing group run a survey on about twelve or fifteen hundred households with last year's tax information. "What do you think of this form?" And we got a real good opinion. One of the things--that is, 75 or 80 per cent of them liked it, thought it was easier, thought it was a constructive change.

M: Even though it was longer?

C: Even though it was longer. That was their one gripe. One of the options we were going to offer here was an option that we would compute your tax, because once we put the thing on a computer, once we got the figures into a computer, it makes it a mathematical check anyway. So it wouldn't have been too expensive. Processing a six or seven page form would have been more expensive than processing a two-page form because--

M: You mean putting it on a computer?

C: Putting it on a computer actually. Just turning pages, if nothing else. But we found out over 80 per cent would compute it anyway because they want to know. They're curious. And they don't trust us, even though they probably recognize when you point out to them that a computer doesn't know who it's making the computation for. It just makes the computation. But no sense offering the option if it's going to cost you money to do the work, and it would. And most of the people are not going to take advantage of it. For a small percentage of the population, it doesn't pay. So we jettisoned that right away.

I was nervous, based on about twelve or thirteen hundred families. It's a pretty small percentage to test on, so the Deputy Commissioner and I decided we would try it on a larger sample, and he's the statistician around here. He said we'd try it on one percent of the population of one region of the country, which was about sixty thousand families. And to make a true test, we sent it as the tax form. We sent them no other tax form. If they wanted the other tax form, the instructions read that they could have it. But would they please fill out the questionnaire in any event so that we'd know why they didn't use this. And we ran the sixty thousand, and we processed them separately so that we would find out. And there just wasn't enough people that would use it and like it. There was a great inertia. The size scared them, that is, the six pages, even though most of them admitted it was easier. They didn't like it for that reason. So we jettisoned it.

We learned a lot of things about tax forms, because each of these people--not each of them, but most of them filled out our opinion form. And we learned some things like numbering lines on both sides of the page so that they could find the line, better labeling,

some printing styles--we did change printing styles. I hired Lippincott and Margulies, a consulting firm in New York, to help us design print-face and style; we made a few changes. One of the President's good friends, a guy named Magnin [who] runs a dress shop out on the West Coast--I had announced that if anybody had any ideas I'd be glad to receive them. Everybody is always saying, you know, "Why don't you simplify the tax form?" I said, "You've got ideas, send them in. You know, everybody tells me to do it; tell me how you'd do it." Magnin did. He took some of his industrial designers. He didn't know anything about taxes, but he knew something about design, and he came in with several good ideas, some of which we couldn't incorporate because we had no space on the pages. We only had so many lines. But we came up with a number of ideas and with Lippincott and Margulies who knew our limitations--doing consulting work--we did come out with a form that was handsomer, easier to use, more legible.

M: Then the President--?

C: Yes, he was interested, and I kept him informed, and I sent him copies.

M: What about the application of the automatic data processing?

C: He was also interested in that because of its potential for better service and more efficiency. We happened to have accomplished a switch to data processing. If we had run the same system that we run today without data processing, it would have cost us about twelve thousand jobs. We need twelve thousand more people, and that's an impressive figure to tell anyone. We also managed, and this is one of the things that we're proud of and that he mentioned a couple of times, a couple of occasions. We managed to go to data processing and switch twelve thousand people from manual

operation--ten thousand, not quiet twelve--there were twelve thousand people in manual operation. We switched ten thousand of them already from manual to data processing, and we haven't had an enforced layoff in it. In other words, we've proved that a modern, industrial-type operation could switch to an automated procedure, and it didn't have to hurt the people.

M: Didn't have any layoffs?

C: No, that's right. We had a lot of work, we had to plan it well in advance, we had to do a lot of training. We had to solicit jobs for some people in other government agencies and private industry. Prosperity helped us. The personnel operation here did a great job, and he was interested in that.

M: Was this a switch--?

C: First time it had ever really been done. Most people that have done it just laid off the people in one function and went around and hired new people in another function. Why incur the expense of training? You don't have to.

M: Was the switch to ADP already in process before you came in?

C: Yes. It had just really started. Much of it had been planned--this was really staff operation. Much of it had been planned back in 1959 and 1960, and Caplin did a good deal of work on it in 1961. It was really getting off the ground in 1963 when I came in, in late 1963, and 1964, 1965, and 1966--we just finished it up last year. The major portion of it came in, but the basic system was moving.

Now, we're planning--I've got a group planning a system for the 1970s, one that we can put in about three or four or five years from now. They'll plan it today and

whoever is around here three or four years from now won't have any alternative. He'll have to stick with what he's got, so we're trying to plan alternative systems that we can price out.

M: I've heard that in 1963 there was a design on tax model whereby you would test tax proposals. Has this been effective?

C: It's a sub-sample of our statistics. We have put out a book called *Statistics and Income* each year. We took a sub-sample of that, statistically drawn, and said that it would be representative. And it's used--it was used quite extensively in the 1964 act to test various modifications and what their cost would be and what their effect would be on various segments of the population. It's a tremendous tool in tax planning to know reasonably well the effect of a given change, or a given series of changes.

M: My information was that this was a--

C: This meant that the Deputy Commissioner was planning research at the time I was developing--

M: Was it in 1963--?

C: --1964. This may have started in 1963.

M: Do you suppose--?

C: We've done a lot of statistical work on it here. The TCMP [Taxpayer Compliance Measurement Program] which was a program to measure tax debt compliance, this was really within the last two or three years--

M: Do you know if that model is used to test the 1964 tax cut?

C: Yes, it was. It was used about a hundred times.

M: So I would assume that you have improved the model.

C: An updated version of the model has just gone out based on 1966 figures. We developed--in the Chief Counsel's office, when I was there, we developed a retrieval system for using computers and microfilming techniques to keep track of pending cases and distributed them to the fields so that we could coordinate positions better. The President was very interested in this. We're using it all over now, but it was pioneered when I was up in the Chief Counsel's office. They developed this technique for statistical purposes, and it was strange. When I looked at it first, I said, you know, "It's great, great, but it'll do more than that. It really is a substantive tool." Some of the technicians had, but they'd never been given their heads so we really set them off to develop this thing as a coordination device so we could keep--it was a big operation--keep it moving in the same direction, and it's worked very well. We're now--just last week the Chief Counsel announced that we'll sell a version of that same file to the public so that they can know what kind of cases are pending all over the country.

M: I'd like to ask you about this book now. In Alfred Steinberg's *Sam Johnson's Boy* there are several references to you implying at least that President Johnson used you as a vindictive tool to intimidate people that he was angry at for one reason or another. And one of these has to do with the Bobby Baker case and the testimony of Don Reynolds, the one that's on page 670.

C: Well, I never met Mr. Steinberg. I don't know where he got his information. I first came into the Revenue Service in January of 1964 as chief counsel. I had nothing to do with any investigative activities of the Revenue Service at that time. I was the legal adviser to

the commissioner. The commissioner at the time was Mr. Caplin who had been appointed by President Kennedy, and I could not, even if I had wanted to, [have] ordered an investigation. In fact, I think the records of the Revenue Service would show if Reynolds was investigated, and I think he was at the time, it started long before I ever arrived on the scene. It probably arose--I don't know this for a fact because I've never looked at any of his files. I've made it a point never to look at investigative files. If he was investigated, it arose out of the testimony that came out before the committee investigating the Baker incidence. There were charges that Reynolds had given favors and cars to people on the Hill and various activities such as that. That there were questions of public policy as to whether those items were deductible. It probably came out of that although I have no knowledge because, as I say, when this thing began, I wasn't here.

(End of tape 2 of 3, Beginning of Tape 3)

M: We're back on tape again. You were going to tell me about this Cummings case that Steinberg talks about.

C: Steinberg talks about a Cummings case, which I think comes out of a newspaper article that appeared in the *Washington Post* on June 4 of 1965 in a George Dixon column in which Dixon is describing a woman named Cummings who evidently had a letter that belonged to Mrs. Johnson and had proposed to sell it. There's a rhubarb that insures--I won't go into the details. But evidently in discussing the matter Mrs. Cummings indicated that she felt that she had been persecuted by the Secret Service and postal inspector, and then she says that after it was all over and she got home, she found a pink

slip under her door from the Revenue Services. Number one, the Revenue Service has no kind of form, no form that I know of, that has any pink slip. And number two, Mrs. Cummings' return was filed that particular year on or about April 15. And in fact, on June 3, to our records, she received a refund. Now she may have gotten a check from us on June 3 or 4, but I don't think most taxpayers complain about that.

M: You wouldn't hand deliver a pink slip--?

C: We wouldn't hand deliver anything anyway. If her return had been chosen for audit, she would have received a written notification in the mail, but, in fact, her return was not chosen for audit. One of our people interviewed Mrs. Cummings to ask her so that we could chase back to see if any of our people had been involved. She did not save the pink slip. She said the pink slip contained a phone number that she was to call. She was given the three phone numbers that we use in Washington, and she remembered specifically that it was not one of those three phone numbers. The only thing that she concluded along with one of our men who interviewed her was that someone of her friends must have been pulling her leg as a result of the publicity that appeared in the newspaper about the letter and the previous situation. But in any event, we did a complete investigation and there was no one in the Washington or the Baltimore office of the Internal Revenue Service or, indeed, of the National Internal Revenue Service that had been assigned any matter involving Mrs. Cummings, because there was no matter then open involving Mrs. Cummings.

M: Let me ask you about one other thing. There was that comment about the TV commentator on page 715, this same sort of thing--

C: 715?

N: 715 . . .this was about the TV news commentator who made a derogatory comment about the President--

C: No, this one says, "I"--the TV news commentator--"made a mildly critical remark about the President. I was expecting a tax refund from the Revenue Service at the time but a few days later I was notified that court action would be instituted against me for failure to pay my taxes. I was certain that IRS had made a mistake, but my lawyer told me I was in for real trouble. Johnson had heard me make an offending item. So I took the only course available to me. I called Sheldon Cohen, director of IRS, and told him I wanted to run a half-hour show directly with him and also work up a series of a half-dozen shows on the wonders of the Internal Revenue Service."

I don't know who the commentator might have been, but I never received a request for such action and don't know that anybody in the Revenue Service ever received it. I think it's somebody's having a flight of fantasy. I could give an instance that would show the fallacious nature of this sort of thing. We once had a rather vicious editorial cartoon that was written about the Revenue Service, and the next day, or the same day--I think it was the next day--the cartoonist received a notice that he had made a computational error on his return. He was so incensed that he wrote a letter saying that he thought this was just unseemly of the Revenue Service to take out on him the fact that he criticized our actions. And I told him in the instance that we would check it out to make sure there was no vindictiveness, but if he thought we were so good we could even find his return among 75,000,000 in one day's notice, he gave us much more credit than

we're due. We checked it out. In fact, the letter had been written the week before in response to computer-generated computation of his return--there was a simple error. Simple arithmetical error, and the form went forth in due course and nobody in the Revenue Service of any supervisory capacity was even aware of it it was such a routine affair.

So this would illustrate that you can't order an investigation of anybody in the Internal Revenue Service without dozens of people becoming involved, because the national office keeps no returns; it makes no investigations. The returns are all kept in the field; they're all kept in GSA [General Services Administration] warehouses. The district office performs the audit so therefore one would have to notify a regional office, a district office, a computer center, a GSA warehouse. All of the employees involved would have to know that return was being pulled for audit. And therefore, one can't pull a return for audit without causing a stir, and none have been done to my knowledge while I was here.

M: Would you care to make a statement that Lyndon Johnson, as president, has not used the IRS for a vindictive purpose?

C: I think I told you earlier that the President had told Walter Jenkins when he first came into office, that had been his role when he was senator, that the White House staff was never to interfere in a Selective Service case, a government contract case, or to make any inquiry or put any pressure on a tax case. And that has been the case. There has never been an instance to my knowledge where any case has been pursued one way or the other because of White House intervention. They've been very fastidious about it.

M: Well, Mr. Cohen, I have no more questions, and I wish to thank you for the fine interview.

C: If anything comes up, let me know.

Well, I was going to tell you about the story of the picture up there. That picture, I think, appeared in the *Washington Post*. It was drawn by my then-six-year old, which happened to be--she's almost twelve now--I guess within a few weeks after I came into office. It's a picture with sort of ranch scene, cowboy horses and cowboy crowd. And she brought this into me one day on a Saturday or Sunday at home. And I told her how nice it was. And she said did I think the President would like one? And I said, "Gee, I guess the President would like one." So she went off and disappeared for a half hour or so and came back with a companion to it, which I guess the President still has, because he's a string-saver. His had, as I recall, a corral and a ranch house in the back, and some horses in the corral. And the sign over the corral says "LBJ Ranch." And then she asked me if I would take that to the President, and I said that I would. I said, "You ought to write the President a letter to go with it. I couldn't just hand it to him." So she disappeared again for a little while, and she came back and she said that she had, she was really learning to write, she said that she hadn't written a letter--she had written a story. And I looked at the story and the story was called "The Horse," and it went--I'm sure you can find it in the White House archives--but it went something like this, "Once a mean man owned a horse. He didn't take good care of him and he didn't feed him, and a nice man came along and bought the horse and took him to his ranch and it was the LBJ Ranch and the nice man was President Johnson." Signed "Melinda."

Well, I took it over, and I gave it to Walter Jenkins for the President and indicated that I thought the President would get a kick out of it, and probably hours later, or maybe a day later, I got a call from the President. He thought this was the sweetest thing he had ever gotten. He had only been in office a couple of weeks or a month. And indeed, the next day I got a call from home. Melinda had gotten a package from the President. The postman had gotten so excited that he hadn't delivered it to the house; he had delivered it to the school. It was addressed to Melinda Cohen at my home, but he delivered it to the school, and the principal took it to Melinda's second-grade room. And the teacher asked Melinda to open it, and Melinda looked at it and said, she could read, she said, "It comes from the White House; it must be important papers for Daddy," and she wouldn't open it. And it had a letter from him thanking her so much for the wonderful picture, and it had an autographed picture of the President for Melinda Cohen with much love.

The sequel of the story comes a week or so later when the President was giving a speech from his office, and Melinda was sitting on my lap at home in the evening. She looked at the President as he spoke and said, "That's the President's office, Daddy," and I said, "Yes." And she looked at me and she says, "Where's my picture?"

M: That's a cute story.

C: But she sends him things every once in a while, and he responds. My eight-year old gave him a Christmas card this past year, and she got a big kick out of it.

M: This is the one that appeared--?

C: That's the one that appeared in the *New York Times*.

M: What was the comment?

C: The comment--I handed him the Christmas card after a meeting with some of the press--I handed the Christmas card and said that Laura wished him and Mrs. Johnson a happy holiday, and he looked at me and he said the card was cute, and he said, "How old is Laura now, Sheldon?" And I said, "She's eight years old." And he says, "Why do they like me?" And he says, "They love me, eight, ten, twelve years old; what happens when they get older?"

M: Thank you.

(End of tape)

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