

INTERVIEW II

DATE: JUNE 18, 1975

INTERVIEWEE: SHELDON S. COHEN

INTERVIEWER: MICHAEL L. GILLETTE

PLACE: Mr. Cohen's office in Washington, D.C.

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G: Why don't we start off with a discussion of wiretapping.

C: Okay.

G: I have often heard that President Johnson was very adamantly against wiretapping. This perhaps went back to his Texas background and the civil-libertarian instincts of the Hill Country Germans in Central Texas.

C: I don't know where it came from, but it was clear to me that he was violently against it. My first experience, I suppose, was right about the time I came into office as [Internal Revenue] Commissioner. There had been an inquiry from a subcommittee of the Judiciary Committee of the Senate, the Administrative Practice [Sub]committee. Edward Long of Missouri was the chairman of the subcommittee, and his counsel was a fellow named Bernie Fensterwald. They were inquiring of all government agencies of instances of wiretap or bugging. It was sort of generalized inquiries out to the Treasury, to the Justice Department, to the Post Office, to the army, and so on. It was sort of a general civil-libertarian kind of attitude. Bernie Fensterwald was of that view. And I think there

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were allegations that Long was trying to pick up where [Senator Thomas Carey] Hennings [Jr.] of Missouri, who had been a great civil libertarian, had left off, to pick up on his popularity. There was a reply prepared for the Secretary's signature reporting any instances of either bugging or wiretapping. The report from the IRS [Internal Revenue Service] reported four sporadic, casual instances where somebody had done something that was clearly against orders, because there were orders out in the Treasury Department against it.

(Interruption.)

G: We're back on tape.

C: Okay, where were we?

(Pause in recording.)

C: The report from the IRS had, I think, three or four instances, one in Georgia where some Alcohol and Tobacco Tax agents or Intelligence agents had overheard somebody on a phone. There were two or three other sort of stale incidents, nothing of great moment. In each case it was an aberration, it was short-lived, and the supervisory personnel at the IRS had stopped it before it had gone on very long. All clearly in violation of rules. And there were a few other instances. For example, the [Internal Revenue] Service did monitor its own telephonic advice. The only way a supervisor of a telephone answerer who provides tax information could check on the work that his people were doing was to hear the question and the answer. But our internal people were always told, "Your supervisor from time to time will monitor one of your telephone calls," so there was no secret there. Nevertheless, that was an overhearing. That report was signed by the

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Secretary [of the Treasury]. I was informed; I asked questions. It seemed to be complete. It went to the committee, and a short while later I received a call from Senator Long saying that he did not think the report was complete. I indicated to the senator that I was new in the job; I had been the commissioner for only a few weeks, and that of course I had to rely on other people for information. But if he had keys that would lead me to any material, I was willing to undertake a full investigation, and I didn't have any fear about finding anything. If we found it, we would root it out, but in order to find it I had to have some key. I could not just start with a wide-scale investigation not targeted at anything.

He invited me up, and I went up and talked with him. He indicated to me he wasn't going to give me any specifics, but why didn't I start in Pittsburgh. So I got in touch with the Pittsburgh office, and they assured me there was no problem. I sent out one of my former special assistants when I was chief counsel, a lawyer who had a lot of criminal experience. He questioned all the supervisory personnel in Pittsburgh. There were a few little minor problems, but nothing of great moment, and he came back and reported that as far as he could ascertain from both the records that he had reviewed and from the interviewing of a number of people, that there was no serious problem in Pittsburgh. I didn't report this to Long yet. The next week, I had to be in Philadelphia, and Philadelphia was the regional office which Pittsburgh worked under. I leaned kind of hard on the chief of the intelligence operation for the region, saying that I was new and they didn't know me yet, but if anybody told me the truth, I would protect them, and if they didn't, man, I was going to ream them all out if I ever found them. I said, "Be honest

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with me, and I'll protect you the best I can. But if you lie to me, I'm going to join the other side." I told them that in my view, the Service was all right as long as we told the truth, even if we were wrong. But if we ever got up before a congressional committee and lied and got caught at it, we would ruin a lot more serious things than a couple investigations. It was just too important.

Nothing happened out of that, except that about three days later, I got a call from the chief of the intelligence division in Pittsburgh saying, "Mr. Cohen, we have four instances." It was clear I got through to these guys. I said, "Get your rear end on a plane and be in my office in two hours," and he was. Two or three hours later, at four or five o'clock at night, we met in my conference room. I had a couple of criminal lawyers; I had a couple of supervisory personnel, and we questioned him. Then Chief Counsel Les Uretz and we just went at it. There were four instances, all associated with the organized crime effort that Bob Kennedy had started in 1961, none in the routine criminal investigation area, that is, of the routine taxpayers. These were all either Mafiosos, alleged Mafiosos. Or one was a crooked cop who was supposed to be the bag man for the chief of police, who later was convicted of being the bag man for the chief of police. They sold quadrants of the city. For twenty-five grand a year you could buy a quadrant of Pittsburgh for gambling. I think it was a lieutenant--I think his name was McDonald--whose home was wiretapped. One was a bugging of a lawyer's office who was allegedly part of the Mafia and who had defended a lot of the Mafiosos, and that--the bugging of a lawyer's office--was really repugnant to anybody. They really weren't after him; they were after his clients, although they allegedly said they were after him. The

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other one was two gambling operations run by alleged Mafiosos.

We got the facts, then sent people back out to Pittsburgh to really interview everybody in depth. Then I went up to Long and gave him the facts without the names, saying, "These are the cases. You're right; we do have a problem." They also, I think, had a conference room which they used for interrogating people in the organized crime effort, and that conference room was bugged. Long alleged that they would walk out of there and let the lawyer and the client talk together and [the IRS] would listen. They told me they didn't. They said they used it so that they could record a conference. But in any event it was repugnant; we took all of that out. There were two-way mirrors in some of the rooms; we took all those out. It was just a morass. I told Long that if he had any other indications, this would prove my good faith, that there may be other instances I don't know yet. But I put out an order in which every special agent was required to receipt that he had read the order that these were his instructions that he was never to do this sort of thing. So nobody could say he didn't know what the rules were. We found a few more instances around the country. There were not a great number, but there were a lot more than we thought. It all sprang out of the early 1961-1962 efforts of Bob Kennedy and the organized crime effort, in which Henry Peterson, who later became Assistant Attorney General under John Mitchell, was part. In fact, when I interrogated a lot of my people carefully, it seemed to me that both Kennedy, in personal conversation with employees of the Revenue Service directly, and Peterson, as chief of the Organized Crime section, had clearly given the message: "You go get these guys, and any device you use is all right with us. We'll protect you; you don't have to worry." In fact, they

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kept saying, "We're going to get you wiretap authority. Go use it," in effect, never saying, "I want you to use it now, when it's illegal," but the implications clearly being there. I am told that even Bob Kennedy on occasion met with supervisory people at relatively low levels to discuss what clearly had to have come from illegal sources, so if he didn't know, he was pretty naive. I don't know that he knew. I didn't discuss this with Long because it wasn't called for. I didn't go into that aspect. He never really asked me; I never volunteered that. But I was firmly of the mind that most of this grew out of Bob Kennedy's part and Henry Peterson's part, although I cannot document that for a hundred percent sure. I could document it a good bit from statements that they made that gave the implication. I can't show you a signed order, which is what I say about a bureaucracy running with the ball if you give them signals. They want to please. Agents like to play cops and robbers, so you had to hold them back in this area.

There was a long investigation. As soon as I got these first indications, I went immediately to the President and told him what was going on. His statements to me were clear that he never wanted the administration ever, under any excuse, to engage in wiretapping or bugging of anybody.

G: What did he say, do you remember?

C: I can't remember the words. I do remember I gave him a memorandum one time, and he wrote in the margin. I think I was later shown a copy of that memorandum [on which he had written] that never under any circumstance was anybody to wiretap/bug. This was never to be done. I did explain that bugging or a listening device was necessary to make an attempted bribe case--and explained how and why. He was tough at first, but later

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understood the differences, that it was legal and necessary to make those cases.

We had some problem as to Long, because Long was suspect. There was a good deal of suspicion in the government at the time that much of what he was doing while under the guise of civil libertarianism was really trying to get [James] Hoffa out. In fact, it was once suggested to me by a United States senator that if I would help get Hoffa out, Long would get off my back. It was never clearly said to me in those words, but that was the implication of the message. I told him I was going to do him a big favor and ignore that.

The President was clear. I kept him fully informed, and I told him I didn't think that we ought to give Long access to IRS records. Because the sway of his committee--it's kind of funny in today's world--I wanted to take executive privilege, which I never do. I did not want to show him the diaries of the special agents, because that would get into the case matter. I did tell him that any time he had an agent that he thought did wrong and that he had any specific information that [the agent] might have been involved in anything, I would personally go through that diary, and I would show him anything that was bad. And not only that, but if he thought that the agent was working on a case on a given day, and he wanted to see the diary for any given reasonable period of time, that his people could see it without making copies. If it were germane they could make copies, but I was not going to give them free and easy access. He asked the President for an executive order which would have given him access. The President never refused it, but in fact instead sent me back to discuss it with him, which was sort of a clear signal to him that he had better get along with me. We made an

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uneasy truce between us that I would supply him with information, and I did. Every time we found I reported it; I can honestly say that. Even the minorest nit of transgression.

One time we had an undercover agent acting in a gambling ring; he was part of it. His partner took the next hotel room, and they had an extension phone, so that if the phone rang in one place it rang in the other place, and the partner could always listen to the phone conversations. Technically, that's a violation of the law, although most people would not think of it as a violation of the law. We had to stop that. I once pulled out a telephone tap on which was revealed a contract being made to kill a revenue agent, a criminal investigative agent, actually. Of course we pulled the agent out before we ever pulled the wiretap out, but we pulled the wiretap out anyway. You either do it or you don't do it. So it gets kind of sloppy. But the President was clear, and as I say, there is a memorandum somewhere in the bowels of the files in which he had handwritten a scribbled note. I guess I had written to Harry McPherson and he passed it on to the President.

One other I suppose I ought to tell you. At some point, Ed Williams and I were sitting with the President in the upstairs living quarters, right outside the private dining room, that little living room there. And the President again reiterated to us how abhorrent it was to him that the American public should not be able to say anything in their home or over their telephone that would not get back to their government.

G: What did Williams say, do you know, on that occasion?

C: Well, I think he passed off some remarks about Mr. Hoover and some of the Justice Department people.

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- G: Lyndon Johnson seems to have been very ambivalent about J. Edgar Hoover and the whole idea of invasions of privacy.
- C: You've heard that story about "rather have him on the inside pissing out than on the outside pissing in." [Deke] DeLoach told me that. Have you ever heard the story--this was told to me by I think both DeLoach and Walter Jenkins--that it was the two of them who convinced Mr. Johnson in the first instance to give Mr. Hoover his first extension. And I got this from both of them: that Mr. Johnson was going to let Mr. Hoover go on the mandatory [retirement]. You see, the first time was the easy one. If he had just let him go on mandatory retirement when he hit seventy, you could have said, "Well, that's the law." Once he gave him the first extension, it was very difficult not to continue. I think it was at that time that both DeLoach and Jenkins talked him into keeping Hoover on the basis that he was more valuable. Hoover was a great man. He had a lot of foibles and a lot of problems, and of course at the end he was kind of senile and had all of the problems that come with that. But when he was lucid, he was a pretty good guy. He had good judgment; he shows that in some of the Nixonian crap. For example, I always admired Hoover because he was always against a national police force. He was always against over-centralization, because he knew that it would create a problem. He was for keeping the FBI relatively small and relatively elite because it could do a good job and make a good record. But if it got too spread out and too all-encompassing, it couldn't. He was smart enough to see those things. He saw them for a variety of reasons; it was for the good of his own little baby, his own child, the agency, the good of the United States. There was a whole variety of reasons. He came out right for a variety of reasons.

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G: It seems that Hoover would cultivate President Johnson.

C: The President loved gossip. At the same time he loved the privacy, he loved gossip. So while it was abhorrent to him on the one hand, I suppose if you brought him in a tidbit of two, he would love it.

G: I have heard that he felt that if he knew more about the politicians he was dealing with than they knew about him, he would have an advantage over them.

C: The so-called Johnson technique of arm-twisting, at least I found, was really being better prepared. Whenever I found myself in an argument with the President or in a discussion, whether it ended up in an argument or not, I could win if I had the facts and if I was not afraid, in other words, if I continued to press. What I noticed about people is that they lost arguments with the President because the President was very quick. He was a good debater, and he would follow question on question. Before you could get the answer to one out, he would be on you with the next one, and if you hesitated, he would have you backed into the corner. That was because he had thought through where he wanted to go, and he was not bashful about asserting it in a very loud and a very forceful voice. But if you didn't back off and you came at him just as strong, he would sit and he would listen. And if you gave him something to worry about, he would delay and he would give you a chance to get your arguments in. Having had one or two situations where I needed to do that and discovered from old friends of mine who had known him much longer than I that that was the technique, I would always come back at him with things that I had thought through that I thought were important for consideration. When I thought it was important enough for him to hesitate, I could get him to hesitate. I would say that on important

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issues, I don't think I really lost any that I felt that strongly about, by [using] that technique. He wanted information. He wanted to know everything he could possibly know. He kind of stored it in that almost computer-like brain so that if he got in an argument, he had facts. That was his technique for winning.

G: How did he reconcile the contradiction between abhorring wiretapping on one hand, and on the other liking the juicy revelations?

C: I don't think he ever really intellectualized it.

G: He never talked about it?

C: I don't think he ever really intellectualized it. I mean, we used to, I used to, Harry McPherson used to, some of us, maybe, who were a little more contemplative and had more time. You just can't have it both ways. As I indicated to you, you've got to bite the bullet, and if you think it's right, you do it even though it hurts you in some other respect. That's all you've got to do.

G: I have heard that the night reading was often FBI reports.

C: A lot of that stuff.

G: Was there a pattern in terms of what sort of material he liked to read?

C: I don't know. I mean, I rarely saw that. Sometimes I'd see it on his desk or sometimes he would ask me about an item. One of the things that I did when I became commissioner was to stop sending routinely any material to either the White House or the Treasury Department on the basis that it had been sent before. They had had a routine of sending what are called sensitive case reports and which have gotten our Republican successors into trouble. Before me, they were sent always to the secretary, and I have a suspicion,

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although I cannot document it, that the secretary either sent the whole report or a summary of that report on to the White House. When I became commissioner, shortly after that within two or three months, but certainly within four months, I stopped sending them even to the Secretary. These were summaries of cases in the field that the field thought were sensitive, either because they were large and important issues or because they were prominent people.

G: Usually politicians, perhaps?

C: Politicians or entertainers or corporate president[s]. I felt that that was the kind of information that if freely passed around the government was bound to cause mischief. My theory was that that's why they appointed me, and if I couldn't handle it I oughtn't be there. Now there were situations when I would report to the President or the Secretary. If the President were going to have someone to dinner and I knew he was coming to dinner and there was a serious problem, I would try to tell him either not to have him to dinner or what the problem was. Or if the President was going to be in the state of X and the state of X's governor was then under fraud audit, let's say, I would tell him, "Look, you can't avoid the governor, but don't get too cozy with him."

G: Were you surprised, as commissioner, at the number of people who felt they could influence you, say if there was a fraud case or something, by going to you or one of the people that worked with you or to the President, trying to get you to take the heat off them?

C: Well, Washington is a small town, and the analogy I have given is that it's like a small high school--and this is male chauvinistic, I suppose: everybody knows the girls who

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will and the girls who won't. So what I did was I said no the first two or three times, no matter what anybody asked me, and then nobody asked me any more. Now part of that was easy, because the President had an understanding with me, and I had asked this of him before. I didn't know anything about politics. I had never been a politician. I had never been to a political rally; I had never worked on anybody's political campaign, so I didn't know anything about it, or known many politicians. But I knew that I was going to make all judgments on the merits, if I could possibly do it. So I got clearance from the President and the staff that I would never have to clear a personnel appointment with anybody, either at the Civil Service Commission or at the White House, other than on the merits. At the Civil Service Commission, I had a pass. John Macy passed the people that I appointed, and that was it. We didn't have to go through anything. I never had to clear them with the White House; I never had to clear them with the state senator. If I was going to appoint a district director for the state of X, I would make the announcement, the press release would be cut, and before it would be issued I would call the senator only so he would hear it from me rather than he would see it in the newspaper. But the press release would have been drawn already. Never once did I have any backlash out of the President. And it gets around. The President had said that when he was in Congress, the only three things that he tried to keep out of absolutely were Selective Service classification, a government contract controversy, and an Internal Revenue matter. He said, "If you get involved and you don't make it, your constituent thinks you are an idiot, and if you do make it, you are in trouble."

G: When did he tell you that?

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C: He told me that right at the beginning. He said, "So if they ever tell you that I want you to do something, you tell them this." So whenever a staff person of the President's would call me with any kind of suggestion of that nature, I just would tell them this. I would see people that the President wanted me to see or that were friends of his. They could get in to see me. Now they might have gotten some edge that way, but I never had any problem with the case material. I don't know if I told this story the last time, but the President asked me one time to move the regional office of the Internal Revenue Service, which for the Southwest region is in Dallas and covers a seven or eight state area. It's a supervisory chain: there's a district office in each state, and there is a regional supervisory office that covers seven or eight states. He really didn't like the city of Dallas, and Austin is his hometown. So he said, "Well, why don't you move it. It's only a few hundred miles. Move it to Austin," I said, "It's going to be awfully expensive and inconvenient." He said, "Move it." I said, "Let me write you a memorandum." So I went back to the office and I told my deputy, "I want a memorandum on moving the office from Dallas to Austin, and I want it to be as negative as you can make it without being obvious," never telling him why. In fact, I later told him why. He came back, and he told me what it was going to cost. It was clearly a negative memorandum, that it was going to cost three or four million dollars and that the travel into Dallas was much more convenient than travel into Austin. There were a variety of reasons.

I sent it to the President, and the next night he called me at home and said, "Sheldon, move it." I said, "Mr. President, let me think about this some more." "No, don't think about it; move it." He must have called me three or four times that week

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while I was vacillating as to what I was going to do, the last of which he caught me [while] Prime Minister Gorton of Australia was here. I was at the reception or the dinner, and coming through the damn receiving line he grabbed me by the arm, and he said, "Have you moved it yet?" I said, "I want to see you tomorrow, Mr. President."

I called the next morning and made an appointment. I went over, and I can almost remember verbatim what I said to him. By then I had been in the government for four years: a year as chief counsel and three years or maybe three and a half years as commissioner. I said, "You promised me at the beginning that I would never have to make a decision based on politics in a case on the merits. And that's been true. I have never done it. I have never taken anything other than the recommendations of my staff and my own legal judgments into account." He said, "But this isn't a case." I said, "That's right. This is a situation which has nothing to do with anything except administration. So I could do it, and I can do it within the frame of reference that you gave me at the beginning. And I would not be bashful about doing it, except that I have searched my brain and have tried in any possible way to rationalize this move on any basis other than politics, and there is none. It's not more efficient. It's not more convenient for anybody. It's not cheaper. If we were setting it up today, I would set it up in Austin. But there it is in Dallas, and the only reason for moving it is political. The problem with now making that decision is that if I do it, it is clear to the world that I made the decision on the basis of politics, and every other decision I made will then be suspect even though it has nothing to do with any other decision. I don't think we ought to live with that. I don't think you want to live with it." He looked at me and he said,

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"You win." That was the end of the discussion. I went through the torture of the damned. I would have resigned; I never said it. I would not have done it only because, again, I had a picture in my mind of what I wanted me to be, and this would have besmirched it. And I honestly thought it was bad for him. In fact, I had my letter of resignation in my pocket that morning at the meeting.

G: Did you get any other indications of his dislike for Dallas?

C: Whenever the name Dallas came up, there was a clear sneer in his voice. I have to say that every once in a while one of his special assistants, [Joseph] Califano, somebody, would call me and say that the steel companies, aluminum companies, somebody just raised prices and the President says to put the heat on them in any way you can to drive them down. He said, "I want you to audit them." Each time that happened--it happened maybe three or four times--I said, "I will not. It won't serve any purpose. We audit U.S. Steel and Bethlehem and all the rest of them once a year anyway. What am I going to do to them that I wouldn't do otherwise except catch some notoriety and get everybody in trouble?" So we never once did it.

G: Could an abuse of a government agency such as the IRS and a subsequent cover-up have happened under Johnson, do you think?

C: It's doubtful. The only point of political contact was me. The only person in the Revenue Service chain of command who was appointed politically was me. I can tell you, and I think you can document, that this has been investigated by both the special prosecutor and the Joint Committee on Internal Revenue Taxation. Dr. Woodworth, whom I took the call from before, said this to me just now, because in the SSS [Special Services Staff]

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investigation of the Nixon Administration, they inquired of me to see what had happened in the past. They acknowledged to me that nothing ever [happened] while I was at IRS. During the time I was commissioner, from January of 1965 to January 20 of 1969, I never ordered anyone to audit anyone or to stop auditing anyone. The thing about a good bureaucracy--and the [Internal Revenue] Service is a good bureaucracy--they will not do anything without a written order, so that somebody has to pass a piece of paper to say, "Go audit Gillette, or go audit Cohen or go audit Zilch." And even if the commissioner says it orally to the assistant commissioner, the assistant commissioner puts a memorandum in the file. You can ask; I would be proud for anybody to go down there and find that piece of paper, because it doesn't exist.

I was the only point of contact. My special assistants I always made sure were career people. My deputy was a career person. My chief counsel was a career person, although the chief counsel technically is a political job. But they were career people that came up out of the bureaucracy, and they were part of the bureaucracy. I always made sure that every time I saw anyone on a case, including a politician, particularly a politician, I always had a career person with me. I always had a person in the room. I never saw particularly a politician alone, because from my staff days I knew that that was the potential for corruption and that people might have thought they could say things to me that they wouldn't say with somebody they didn't know in the room. They didn't know me either. And so it never happened.

G: Do you recall ever having to go to the President to get him to, say, take the heat off you if one of his assistants or a cabinet officer or somebody was trying to--

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C: No. No. I defied them a couple of times, and they never came back. When somebody would say [something] to me, I used to say, "Go to the President." And that would be the end of it. I don't think they ever tried it. There were only one or two times when I really had to defy the President himself. I told you the Dallas one. There was one other instance.

G: This was the domestic unrest business?

C: No. Well, the domestic unrest--there was one other specific case. But the domestic unrest--while we are on that--he came to me at one point, or maybe I was there on another situation. We used to talk on the telephone once a week or once in two weeks. And I would go over there fairly often [for] lunch, dinner. Some of the special assistants became friends of mine. I would help on some other things, like I would help on financial affairs. He used me quite often for judgments on other things and just to talk. He asked me one time would we investigate the Black Panthers and some of the other agitative types of radical groups.

G: Did he mention the Panthers specifically?

C: I think the Panthers was specific. I think there were several others mentioned. I don't remember the names right now.

G: How about SDS [Students for a Democratic Society?]?

C: Might have been. Might have been. The main thing he was interested in was their possible foreign funding, were they being funded by the Chinese Reds, or something like that. I remember saying to him that if you change the pattern of audits of the IRS, it becomes known. Sheldon Cohen can't get an audit done without a memorandum going

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down, and it's so unusual, I didn't do it, that it would then be very notorious around the building and that in any event they would probably resist. Those were the kinds of groups that love to resist you. You would be in the funny papers, newspapers before long, and unless you were prepared with a good reason why you ought to do it, for tax purposes not for other purposes, you ought not to get started. And we really didn't have any tax concerns about them. And in any event, if the Chinese Reds were financing them, we were not going to find out about it that way because they would have buried it in a thousand different little small contributions. I had seen reports on other kinds of groups that just sort of filtered in without request, and I just didn't think it was wise to do it. And that was really the end of it. Now I don't know that he didn't go to Walt Rostow or somebody else and say, "Get some other agency to do it."

G: Did they to your knowledge get another agency?

C: I don't know. As I say, I don't know. But when I saw that Rostow had evidently requested the CIA to do these things, it sort of rang a bell in my mind. Because clearly that was the kind of request we were getting.

I grew up in the Internal Revenue Service. I had a great feeling for it as an organization, and a great feeling that it was a marvelous instrument of national policy. I mean, here was an income tax that worked. There are very few countries that can say that. A tremendous asset. I'll be damned if I wanted to do anything that would bring it into disrepute, that would cause it to work less. You know, you have shutters. You say you are collecting a hundred and something billion dollars. Now they are collecting two hundred and something billion dollars. It was a hundred billion dollars in those days, a

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hundred twenty, a hundred thirty, a hundred fifty, a hundred eighty when I left. Suppose you affect its collection process by a half of one percent. That's more money than anybody can imagine, so you sort of treat it very tenderly.

The one instance [where] I did really have to say no to the President was that we issued a set of regulations one time that would have hurt the Ford Motor Company very badly. It had hired [Semon E. "Bunkie"] Knudsen with a very special kind of tax deal that was based on a ruling that had been put out by the Service many years before I became commissioner. I issued a set of regulations that would have withdrawn that ruling and made the rules much tighter and would have made the arrangement with Mr. Knudsen very unprofitable for Mr. Knudsen, or less profitable for Mr. Knudsen than either he or they had contemplated. And Henry Ford evidently got to the President on some other matter. He went to see him in the National Alliance of Businessmen or something like that. And during the course of that, he threw in, "By the way . . . the Revenue Service is doing these terrible things." I got an inquiry from one of his special assistants who was there, and I explained to him that it wasn't terrible; it was the right thing to do. That lay quietly for a while. And then one day I got a call either from the President or through somebody else from the President saying that I ought to withdraw those regulations. I said, "Everybody in the world knows Henry Ford has seen the President. His name is on the list. Those regulations are right, and I'm not withdrawing them." I think the message came through the Secretary, and I said, "You have delegated the authority to me. I operate on delegated authority. *You* withdraw them." "Oh no, I wouldn't withdraw them." I said, "Well then, they don't get withdrawn, not as long as I

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sit here, and if you don't want me here, I'll go tomorrow. But I'm not withdrawing them."

And that was the end of that.

G: The President never talked about that later?

C: No. It came back to me that he kind of felt hurt. Joe Barr, who was then undersecretary [of the Treasury], said to me that he looked at him very quizzically. Joe said, "Mr. President, Sheldon feels very strongly that they are right." The President said, "All right. If Sheldon feels that way, leave him alone." But he never said anything to me directly. When you won an argument with the President he rarely ever told you directly. You knew it because whatever you had asked or whatever you had recommended happened. But he was not the kind of a guy who could graciously say, "I'm wrong and you're right." And that was all right, because if the right thing happened, I could give a darn whether I got the credit for it. That wasn't the process; the process was to do the right thing.

G: In the course of your service there, did you get a feeling for the differences between the attorneys general, say Ramsey Clark or [Nicholas] Katzenbach?

C: Yes. Of course, obviously, Bobby Kennedy was the attorney general when I first came in. And I worked with Bobby, who was nice. I got along with him well. I got along with him well when he was senator, but he wasn't really the attorney general. Nick [Katzenbach] was the attorney general. He liked Nick; he respected Nick. He thought Nick was smart. He thought he was tough. He thought he was a good organizer. And I thought he was a good attorney general. I was happy and pleased to work with [Nick].

Ramsey was my personal friend, and he still is. The President was very unhappy with Ramsey. He liked Ramsey. He respected his intellect. He did not think he was a

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good manager. He thought he was impractical. He was quite often upset when Ramsey would turn down the recommendation of some politician for this, that or the other thing that either he or some of his people or one of his political cronies was trying to push for U.S. Attorney or for a judge. Ramsey was pretty stuffy about those things. Now I would have been stuffy, so I sympathize with Ramsey.

G: The Richard Russell thing comes to mind--

C: That kind of stuff.

G: --on the judgeship in Georgia.

C: Yes.

G: That caused a lot of problems.

C: As I say, the beautiful part about me is I did not have to go to any politician to ask for anybody to endorse anyone. So I had the best of all possible worlds. I appointed whomever I wanted. Even on an advisory group, I would appoint whomever I wanted. I did make one condescension to the White House: that is, on an advisory group, where they had really no official function at all, I would let them blackball. The only time I ever got blackballs, I got one time, and it was somebody who belonged to a firm that they thought was their political enemy. It wasn't the guy; it was the firm. And once in a while he would moan, "Put somebody on it from Texas." He wouldn't care who, but if I didn't have two people from the Southwest, he would moan. So I would put on a couple of people from the Southwest, but he would never tell me who; I would get no direction. You would get these moans both out of Mildred Stegall and out of . . . I mean, I would know they would be coming from him, about what a terrible manager [Ramsey] is, and

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he's causing them all kinds of grief, and he's such a nice kid and I love his father, and why does he do this to me. Now as I say, Ramsey's a very good friend of mine, was a good friend of mine. He and I discussed a lot of things. For example, I remember I was sitting in Ramsey's office the day we arrested [H.] Rap Brown, because it was the Alcohol and Tobacco Tax agents who picked him up.

G: Was he as sensitive to civil liberties considerations and invasion of privacy considerations as you were, do you think?

C: Who, Ramsey?

G: Ramsey Clark.

C: He later was. He may have been, close.

I had no problem with him. In other words, we went to the Justice Department a couple of times. A lot of disclosures we made caused the FBI's grief, because we hadn't wiretapped, but we knew the FBI might have. So we would go to the Justice Department saying, "You are prosecuting--" Balistarie--was one of the cases, and there was the Chapani case. "Before we prosecute them on a tax charge where we know we didn't do anything, you had better search your files and make sure you didn't do anything, because we'll get in the courtroom and embarrass the United States by finding that the case is fouled up because of something you told us, where you learned it from an illegal source." There was a little fight, a little bit of animosity [that] grew up between the tax people and the FBI for that reason. Although, my relationships with [FBI Director J. Edgar] Hoover were pretty good. My relationships with [FBI Deputy Director Cartha "Deke"] DeLoach were very good; we're good friends.

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G: DeLoach was very close to the President.

C: Yes, I don't know if you guys have interviewed DeLoach, but he ought to be interviewed.

G: Sure. We haven't yet, but I do want to.

Well, is there anything else from that meeting with you and Edward Bennett Williams and the President? Can you remember any statements that the President made, or the way he phrased [his remarks]? He must have been expansive on it.

C: He was, he was. Ed might remember better than I. You might ask him. Maybe if Ed says something, it might spark something in my mind. I just remember it was a very, very colorful conversation, lots of jokes and so forth. But it was clear; he knew how Ed and I felt, and he was expansive on the subject.

G: As you remember this, do you think that he saw Hoover as a potential political threat to him?

C: I rarely was in on the conversation when it turned to a political angle. I heard him say that "inside the tent pissing out . . ." once. I heard other people attribute it to him.

G: But do you think this really meant to him that he was afraid of having Hoover on the outside? Do you think he really meant it?

C: I don't know. I mean, it was always said in a funny, jocular way, and I never could evaluate what was behind it.

G: Did he ever mimic Hoover?

C: Yes. He mimicked everybody, probably mimicked me to other people. He was a great mimic. Other guys used to come to me. You see, he never intimidated me, either because he respected me or because I wasn't important to him. I don't know why. But I

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know that Jimmy Symington would be intimidated by him on occasion. Tyler Abell had terrible times with him. A couple of the guys would cry on my shoulder. I never really had the experience. If he came after me, it was always in an intellectual way and it was never personal. I never had that kind of problem.

G: Do you think that your relationship with Justice [Abe] Fortas might have helped?

C: Fortas takes a lot of the credit for it, and it may well be. He always said he was my patron, and therefore the respect that the President had for him came to me. And it may well be; I won't deny it.

G: Did he ever give you any advice on how to deal with the President?

C: Most of my advice on how to deal with the President came from Walter Jenkins. The first time I wanted to say no to the President, I didn't know how to. This was the first or second week I was in office.

G: What was this with regard to?

C: I cannot even remember the problem. I remember the problem was the President said, "I want to do thus-and-so." He called me. It was the first time in the history of the Internal Revenue Service that the President had ever called the chief counsel personally on the phone. I was in the middle of a conference, and my secretary came in. She was quivering. "Mr. Cohen, the President's on the phone." I was in a conference in the large conference room of the Internal Revenue Service. I went into the phone booth, and the President came on the phone. I had talked to the President before, both personally and on the telephone, so it didn't scare me. He wanted to do thus-and-so; I cannot even remember what it is. I might be able to find it in my diaries if I look. I remember telling

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him, "There are two ways to do it, A and B. Let me think about it, because I really don't know what I would advise." I ended up writing a memorandum saying, "I don't think it's wise to do either, but if you are going to do it, do A; that's the best." Three days later, two days later, he calls me and says, "Do B." And I didn't know what to do, because I thought it was silly; I thought it was a foolish move. I remember calling Walter Jenkins, and I said, "Here's what's happened. Now what do I do? I want to make him reconsider it, but I don't want to be an effrontery. And it's nothing that's going to be the end of the world; it's just going to be a mistake." He said, "Well, I would advise you [to] prepare the papers B, which is what he told you. Prepare a strong memorandum on why A is better or nothing is better, and send it over. He'll read it. If you affect him, if you really get to him, it will lay a while and then it will go away. He'll never call you up and say, 'Forget it.' He is not the kind of guy who can admit he has made a mistake, so when you win, it just goes away." And that's what happened. I sent him the memorandum. I said, "You've asked [for] B. Here's B. Here's the way to do it; sign here. BUT if you are going to do this at all, I recommend A, but I would recommend you not do it for the following reasons." And nothing happened; it just went away. I never heard from it again. I knew how to do it then.

G: I have heard that Jenkins knew better than anyone else--

C: He knew his moods. He also knew when to give him something. There were times, evidently, when he was sort of manic and hyper. You didn't give him anything that you wanted him to contemplate at those times, because he was going to make a decision right then and there. But if you got him in a contemplative mood, he would sit and analyze.

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He sort of missed that later. He really had nobody around him who had that same feel.

Califano never had that same rapport with him. None of those other guys really had that same rapport with him.

G: Your friendship with President Johnson continued during his retirement.

C: Yes.

G: Did you continue to advise him on tax matters?

C: He would call me. We never really represented him directly. Wally Thomas' firm down in Austin represented him, and I think Waddy Bullion over in Dallas does a good bit of work. But he would from time to time call me and say, "Here's the problem. They say that there are two courses of action. What do you think?" And he would sort of bounce it off the wall with me a few times. Or he would ask me for recommendation of course or conduct, even without going back to them. I had a lot of discussions with him, for example, when he was deciding to give the remaining interest in the Ranch to the Park Service. I arranged with the Revenue Service to cooperate so we could eliminate a lot of potential problems. We had done the same when I was in the government for Eisenhower, so we arranged a similar arrangement.

G: Did he work through Bob Phinney much on that?

C: He knew Bob Phinney because he was close to Carl [?], really. But he didn't have too much contact with Bob.

G: Is there anything about giving the Ranch that you reflect on as being significant in terms of how he felt about either a), money; or b), his Ranch?

C: It's interesting, because I talked to him about the tax consequences. That never really

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loomed large. He wanted the Ranch to be part of the Park Service. He thought that was great. And we explained to him the tax considerations, that it would be beneficial. I think he had made the decision even before he understood what the tax consequences were. And then what I did was I arranged for the chief counsel of the Revenue Service to have the papers done in such a way . . . What we did was we got an appraisal, and they would approve the appraisal or reject it beforehand, so that he wouldn't have potential audit problems down the road. This was before we knew he was going to die, of course, although we all knew he had the heart condition. So we had a conservative valuation made of the property. Somebody from the Revenue Service here in Washington went down and worked it out. I had a number of discussions [with him]. I told him I thought it was great that a person would give up his prize possession, because of all of his property and anything that he owned, other than his wife and children which were not in that same class, this was the thing he prized most. And here he was giving it away while he was alive; most people don't do that. Yes, he retained a life interest for himself and Mrs. Johnson, but he was giving it to the United States to use for a park or a historical monument or whatever they wanted to use it for.

G: You were down for [the] dedication, you said, and went out to the Ranch I believe. Wasn't that it?

C: Yes. He asked us that afternoon [to] please come out the next day. We went out about ten in the morning, and he had a brunch, and we stayed till two or three o'clock in the afternoon.

G: How was he on that occasion?

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C: Oh, he was just in seventh heaven. It was a small group: a few former cabinet officers, I think Bob McNamara, and maybe Orville Freeman. Not more than ten, fifteen, twenty people around. He showed us some art works he had around the house. There was "The Bronco Buster," or one of those pieces by Frederick Remington, I guess.

G: The Remington bronze.

C: I guess it was a buffet. We went out on the front [lawn] and ate. He just sort of wandered from table to table, and we talked about old times, the kinds of things he wanted to do with the school, training kids for government, which he thought was great. He wanted to get to young people.

G: Did he ever get you to come down and teach there?

C: He mentioned it to me a couple of times. It never came off. Once I was coming back from Mexico; I was down in Mexico on a thing for the United States government. We were helping to train some Latin Americans. I had started this when I was in the government, and they had a meeting in Mexico City later that year. He found out I was in Mexico City, and he said, "I want you to come by on your way back." He had already checked the flight records: "There is a flight to San Antonio, and I'll have a car or somebody pick you up." Unfortunately when we got there, it was pouring and the plane couldn't land, so I never got back.

G: Would he kid with you on these occasions? I understand that he would always, in joking with somebody, exaggerate his differences with them or what he saw as their weaknesses.

C: Oh, he called me a Boy Scout every once in a while. But it was clear he would keep coming back for more. I mentioned to you earlier he was making a talk once to the Mayo

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Board on spending our resources for medical education, medical research, which he was always imbued with and wanted us to do more. He called me an hour or so before to try to get some statistical data that if corporations would contribute such-and-such a percentage of their after-tax income, what difference it would make, that sort of thing. He would always consider that I had all that stuff at my fingertips. Of course, I had to spend the next hour scurrying about to try to find the statistical base from which I could let him make a reasonable statement.

G: Was it one percent, did you say earlier?

C: I think he started at one percent. I don't know if it was one percent or half of one percent. It ended up being a lot of money. Corporations are allowed to give five percent of their income, and as I remember it, they were giving something less than one percent. What he said is if they went up to one per cent, here's what you could spend on medical research.

G: When was this, do you know?

C: It was in Rochester [Minnesota].

G: Well, was it his last few years? It was in retirement, I think.

C: It was in retirement; it was several years out into retirement.

G: That's fascinating. He seemed enthusiastic about this, did he?

C: Oh yes, he was very excited about it. Now the other thing, I guess I don't know if we have time; I've got a meeting. What time is it? So I'll be half an hour late; it's all right. I've got to go to lunch and home.

You might want to get into the area of the change in law on gifts of papers. I

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didn't cover that the last time because it hadn't occurred yet.

G: Right. Ralph Newman's appraisals.

C: Yes.

G: Did he talk to you about that?

C: He talked to me about it a lot. The change in law was aimed at him. It was proposed by John Williams of Delaware, his old "friend." The President, in one of his expansive exaggerations, had made some kind of statement to some reporter. You know, my papers are worth X million dollars. I have forgotten what it was; whatever the number was, it was a big number. I don't know whether that was an appraisal or not, because I never saw the appraisals. I never had anything to do with the gifts of the President's papers other than just chat about them. I think Carol Agger Fortas handled the legal work, because I was in the government most of that time. I wouldn't have anything to do with it, and I never saw his returns or looked at them. While I was in the government I wouldn't talk to them [his lawyers]. His returns were handled like everybody else's. I didn't have any special arrangements like the Nixon crowd did.

We had proposed before we left that gifts of appreciated property be cut back. Surrey and myself and others were talking about, like, cutting them back by half without aiming them at anybody, the President or anybody else, because they were potential tax abuses. And that never was blackballed at the White House or anything; it was in our report. The House committee had some cutbacks but would not have seriously impinged on gifts of papers. When it got to the Senate, Williams put in, in effect, that a public official or any other person in fact couldn't give away papers or other things except at the

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basis, what they had cost. That would be the cost of the paper, either papers prepared by themselves or for them in their public office. If you had a well-known artist who might give a painting to an art gallery, it would do the same to him. Williams, interestingly enough, was aiming at Johnson, although there were lots of senators and House members, and in fact, Nixon had already started on the course, and [Williams] didn't realize he was getting at them, too.

Johnson called me and said how can we head it off and what can we do? I told him, "Much of this is right. It ought to be cut back some, but you might be able to either limit it or affect it retroactively. You know, maybe you get 1969 out." We had some discussions then, and he asked me to keep him abreast. And I would call him when I saw something happening that might affect him. I had told LBJ about an estate tax deduction which was not affected by new legislation.

We got into the fall, where it was clear . . . I think the Senate bill originally was as of January 1, 1970, so 1969 would have been all right, and President Johnson was prepared to make a gift that year. But I told him that he oughtn't to make a gift while it was in question, because he didn't want to be the last train through. It would look bad. It was a question of taste, not a question of law. And he followed that advice.

So then when it looked like they were going to move the date back clearly to make it applicable to the whole year, he said, "Isn't there anything we can do to either leave the original effective date or make it clearly January 1, 1970? I won't get any more, but I'll do something this year."

So I made some inquiries for him on the Hill, and he evidently made some of his

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own, and there were some attempts made to keep the effective date so that 1969 would be clear. He went to visit President Nixon some time in the fall. I stopped keeping a diary when I left the government, so I don't have a date on it, but I would guess it was in late October or early November. And he called me afterwards and said, "Nixon wants to do it, too. His people are going to try to get an effective date of January 1. Would you work with them?" And he said, "You call Bryce Harlow. The President's going to talk to Bryce Harlow." Bryce Harlow denies this conversation, by the way, interestingly. *I called Bryce Harlow on the phone*, and I said, "I understand our bosses have had a conversation, and that they have a mutual interest in getting an effective date of January 1 and I am to try to help you in any way I can. Now, I have talked to the staff people, and they tell me that it's beyond their ability. They are sympathetic but you have more access to the Hill than I. Is there anything that you want me to do? Should I talk to anybody? I have talked to Mr. [Wilbur] Mills, and he is somewhat sympathetic. And I have talked to Russell Long, and he is somewhat sympathetic, but if you guys go up there and make the representation, I think it can be done. But if you want me to, I will help you." [He said,] "No, that's not necessary." *I know* he went to see the people on the Hill, although he denies it.

G: How do you know that?

C: You have heard me before: I've got access to the staff, and they tell me he came up there. In the conference, they lighted on January 1. They changed it from whatever date it was in July or June or March, or whatever the date is in the darn bill; I can't remember what it is right now. Since it was not in the House bill, the date was really open for grabs. They

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changed it to December 31. It stayed that way for a day or so, and then Harlow must have gone back to the committee and said, "I'm worried how it's going to look for Mr. Nixon. Do whatever you want to do without regard to what I have said before." So they went back to their date. I called President Johnson and said, "They've walked away from you." He said something like, "That son of a bitch," or whatever, and that was the end of that conversation. That's what happened. So it was clear that the Nixon crowd *knew* that the date was going to impinge on him. Because Johnson made them aware of it, and I had the conversation with Harlow. And Woodworth and other committee staff people up there know that Harlow was up there. And I think Eddie Cohen, who was then assistant secretary or undersecretary of the Treasury, had conversations with people on the Hill. Johnson made no gift in that year of papers. I don't know if he made gifts of other things, but he made no gifts of papers that would have been affected. Because as I say, we had decided that if you are going to have a question, don't do anything that would cause any question. You're the President of the United States. Don't get any besmirchment on you for anything like this.

G: Does this at all reflect on President Nixon's statements that President Johnson came up, met with him, and advised him to take the deduction, to have his papers deducted as a tax [benefit]?

C: Yes. That's crap, really. The timing is bad. I mean, Nixon has really made it over to suit his convenience. Because before President Nixon became president, two of his staff people came to see me, and I described to them what the rules were and told them the people who had done it for Johnson. I said I hadn't done it because I was in the

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government, "but here are the people you talk to, and here are the kinds of things you do, and here are the kinds of things you avoid." And I told them about conflicts of interest, and I told them about the trusts, and the response came back to me that President Nixon will not have any conflicts of interest, because all he is going to own is real estate, San Clemente, [for instance]. Kind of interesting in today's world. But I remember discussing it. I said, "I will cooperate with you in any respect. I will give you copies of any documents we have. I will have to block off anything confidential, but the President has asked me to cooperate. [Nixon] is going to be president of the United States, and I don't like that, he's not my choice, but I ought to do everything I can to help the president of the United States." So we told them all about this, so they knew about it before. They didn't need to hear it from President Johnson. President Johnson recommended they get a good appraiser and a good historian to help them. This was all done before he left office. So Mr. Nixon's statements in regard to timing are just off.

Now this conversation in November is really the other way. That is, he was saying, "If you want to do it this year, we have both got to help get the statute changed." I think that points out that Mr. Nixon had to know that the statute effective date was being monkeyed with, and anything he did might be affected by that change in statute.

G: You said you talked to LBJ three days before his death.

C: I called him on Friday. I think this was about the time we had completed the documentation, or maybe they were just announcing it. We had completed the documentation before the end of the year of the gift to the United States. I think I had called him to say how much I admired him for having done it and I thought it was great.

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And I had sent him a letter. He was gasping for breath, short of breath. He was moaning about, "I may not be here too long." He always moaned about that to me.

G: Did you feel then that he didn't have long to live?

C: Yes. Every time I talked to him in that last year, he was moaning about, "It hurts. I'm in pain."

G: Well, is there anything else you want to add?

C: I think on the last taping we did, I described how he told me in January of 1968 he was not going to run, but I can't remember.

G: I'll have to check that again. That's good. I certainly do thank you.

C: Okay.

End of Tape 1 of 1 and Interview

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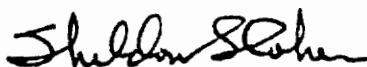
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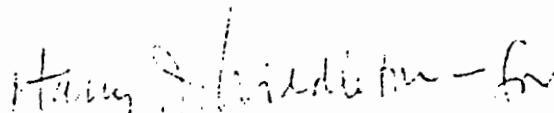
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