

INTERVIEWEE: WILLARD DEASON (Tape 1)

Interviewer: David G. McComb

Willard Deason is Commissioner, Interstate Commerce Commission. Interview at ICC Building, Washington, D. C., Room 4211, February 17, 1969, 9:45 a.m.

M: First, to identify this tape for the benefit of our typists. This is an interview with Mr. Willard Deason, who is a Commissioner of the Interstate Commerce Commission. The interview is in his office in the Interstate Commerce Commission Building, Washington, D. C. The time is 9:45 in the morning; the date is February 17, 1969; and my name is David McComb.

First, Mr. Deason, I'd like to know something about the circumstances of your appointment to the ICC. Were you in Austin at the time?

D: I was appointed in August of 1965. I had spent some time in Washington talking with the President about the possibility of the appointment; I believe, however, I was in Austin at the time that the President announced the appointment. I had been in Washington just in the days immediately preceding the announcement, but I had gone back to Austin at the time the President made the announcement.

M: So it was no surprise to you?

D: Oh no.

M: You had to have Senate confirmation, did you not?

D: That's correct.

M: Was there any difficulty there?

D: I would say no difficulty. Prior to appearing before the Senate Commerce Committee, I went up on the Hill and visited with as many of the

committeemen as I could contact and said I was there to get acquainted with them and answer any questions that they might want to clear up prior to the time that we went into the committee room and let them see me and know maybe what sort of an animal I might be.

M: Was there any criticism based on the fact that you're an old friend of the President?

D: None whatsoever. Senator Morton from Kentucky did sort of make a good-humored quip that, while he favored my appointment, he would be just as happy if there weren't so many Texans being appointed, to which Senator Magnuson, chairman of the committee, quipped back: "Senator, I don't think there are more Texans being appointed than any other group of folks. I think there is just more attention made to it when they are appointed."

Actually, that was the only thing that could have been considered criticism at all. The committeemen, the other Senators, were very kind to me.

I might point out that I was accompanied at that time by Senator Yarborough, a Democrat from Texas, and Senator Tower, a Republican from Texas, both of whom made very laudatory remarks about me. I was happy at the fact that I was sponsored on a bipartisan basis by both of my Texas Senators.

M: That must have been very gratifying to you.

D: It was. It was a gratifying experience.

M: Well, then, did you immediately move to Washington?

D: Yes, I did, shortly after I was confirmed, which was a couple of days after the committee hearing. I was notified by the White House that the

confirmation had taken place, and I moved to Washington within a week.

M: Now the idea of forming a department of transportation must have come along about this time that you arrived. Is that correct?

D: Well, of course it had been in the mill for some time before I arrived, and the history of the Department of Transportation is not new. It had been proposed over a period of twenty or thirty or forty years by several presidents, but President Johnson proposed it and sponsored it and under his Administration, it was passed and became a reality.

M: When the Department of Transportation came into existence, the ICC lost part of its power, did it not?

D: I'm not sure that "power" is the correct term. We lost part of our responsibility. Our people who had been supervising the safety factors of ground transportation were transferred in toto to the new Department of Transportation, because the department was charged with the responsibility of safety which had heretofore been the ICC's.

I would point out to you that the ICC did not resist the transfer of the safety functions over there. As a matter of fact, we recommended in a letter to Congress that the safety factors be transferred to the Department of Transportation, where it rightfully belonged.

M: Was there any resistance to the transfer of this at all in the ICC?

D: No. Oh, there may have been some isolated individuals who would have preferred that it not happen; but within the Commission, amongst the commissioners, it's my recollection that it was unanimous that the safety function be transferred to the new Department of Transportation.

M: I have read that Commissioner Charles Webb made some protest over the

transfer of car service functions.

D: Now car service was a different thing. That's correct. There was quite a discussion about the transfer of car service, since it was felt, and Webb espoused the cause, that we were responsible for rate-making and things like that, that car service properly remained with the ICC.

M: Well, was that car service function actually transferred then?

D: No.

M: That stayed with the ICC? I understand that Webb wrote some letters to Congress about that. Is that correct?

D: Yes, he did.

M: There has been some criticism of independent agencies, not necessarily ICC, but agencies of this nature in general, that they might be captured by their constituencies. In other words, the ICC would become a tool of the railroad rather than an agency to regulate it. What's your reaction to that sort of criticism?

D: Well, when you assume responsibility for making decisions, you expect to catch criticism from both sides. Of course, the people who are unhappy with any decisions that we make would say that maybe we were captive of the transportation people. On the other hand, the transportation people would tell you that we're anything but a captive of theirs. They're extremely unhappy with a number of things which come out of this commission. All you've got to do is read the trade journals by the trucking people and the railroad people, and you'll find that we're criticized frequently--called shortsighted, backward in our thinking. The truck people will insinuate--they never say, but they'll insinuate that maybe we're oriented

to the railroads, and the railroad people may insinuate that we're oriented in some other direction.

But if you're trying seriously to do a job where you have to make decisions that affect people's pocketbooks, then you're in for some criticism from both sides. And when we get to where we don't get criticism, I'm going to be worried.

M: On this same line, there was some criticism in 1966 that the ICC was trying to transfer traffic, through rate regulation, to the railroads away from truckers who were not under ICC jurisdiction. Do you remember anything about that?

D: Give me that one again.

M: There was an article that came out in the newspapers in 1966 that stated the ICC, through rate regulation (through the manipulation of rates in the Midwest), was trying to throw more traffic to railroads which were under ICC jurisdiction and away from truckers who were not under ICC jurisdiction. Does that make any sense to you?

D: I think I know what you're talking about. It's probably the so-called farm co-op cases. The farmers, and there's a lot--Midwest, Southwest, and various parts of the country--organized co-ops to haul their own products, farm and farm-related products. They have permission to do some back-haul, so that the trucks don't return empty. But it was a good thing, if properly operated, and many of them were properly operated. But there are always the boys who want to make a quick buck or cut a corner, that wanted to get into the trucking business but didn't want it to be regulated. So they would organize a paper co-op; they actually owned the trucks themselves, they did all the operation of it, but they called themselves a co-op. Yes, the ICC opposed vigorously, and I think rightfully so, this spurious entry into hauling for the general public by the so-called farm co-ops, who weren't really co-ops at all.

The American Trucking Association took the lead in sponsoring legislation to correct that. And the allegation that it was throwing to the railroads, I don't quite understand. If the newspaper article to which you refer and which I don't recall ever having seen could have said we were trying to take the traffic away from the unregulated trucks and give it to the regulated trucks, then there would be some validity, but to the railroads maybe not so much, unless to farm co-ops were hauling things which the railroads felt like that they should haul.

M: The implication of the article was that the ICC was doing this in order to gain power for itself, more jurisdiction over transportation.

D: Again, if you don't get criticism, you're not doing anything. It wasn't to gain power per se. It was to stop what we considered bootleg hauling for the public without regulation. Just as if you and I should get out here now and start us a truck line and say we're hauling for the public, it wouldn't be long until somebody would be in there stopping us right quick and charging that we were operating illegally. And we would be if we held ourselves out to haul for the public without first getting certified by the ICC and publishing our rates, which are open and the same for everybody. Basically, that's the two purposes of rates: one, that they be open and known to everyone, and secondly, that they be fair, not discriminatory--either too high or too low.

M. In order to carry out this function, do you think it's necessary that the ICC be independent and not a part of, say, a department like the Department of Transportation?

D: Well, that's a philosophical question, and people are independent, largely depending upon their will power to be independent. I think probably to

answer your question, yes, I think it's better for those who have to make decisions like this to be under an independent agency rather than as an agency within an executive department.

M: You think you'd be able to perform your job, or you are able to perform your job better with, say, responsibility only to Congress rather than the executive?

D: When you say, "you," you mean "you" collectively?

M: That's right, as an agency?

D: Yes. The answer to that is yes.

M: The only thing I was questioning here was the structure of the ICC and whether you thought it should remain as it is or should be changed or altered in any way.

D: I think the ICC's doing a reasonably good job and while it may need some alterations, I do not think putting it in the Department of Commerce or the Department of Transportation would increase its usefulness or its effectiveness.

M: Well, there has been some criticism lately of the FTC, which is also somewhat of a regulatory agency.

D: That's correct.

M: And the criticism being that it's obsolete; that it needs reform; that the personnel are old, archaic, with old ideas--they're not flexible enough and so on.

D: Yes, that's what the Nader Raiders said, I understand.

M: Yes.

D: A bunch of fellows from--where was it, Harvard?

M: Yes, some from Harvard and elsewhere.

D: I recall when I was that age, I had all the answers to all problems.

M: Do you expect a raid from Nader's Raiders?

D: Well--I don't know. I don't know.

M: Apparently, there has also in the last decade or the last few years (during the Administration of Lyndon Johnson), been a shift in the outlook toward regulation whereby there is more emphasis on inter-modal competition, (competition between railroads and truckers) to avoid abuses rather than rate regulation. Is this true?

D: Now you made a statement and then you asked me "is this true?" I'm not sure I followed you there. You said during the Lyndon Johnson Administration, if I understood you correctly, that there had been a tendency--repeat--you pick it up from there. I want to be sure I understand you.

M: There is a tendency to stress or to emphasize inter-modal relation, that is, competition between trains and aircraft, buses and trucks, a competition between the modes of transportation, rather than rate regulation itself, as a means of controlling the transportation services.

D: Well, now you made a long statement there in which I'm not fully aware of this philosophy which you express of the Lyndon Johnson regime. Maybe it is, I don't know. I can't answer your question, because I'm not familiar nor do I subscribe to the basis on which you've couched your question.

M: Then you would take a position that rate-regulation is still a very important function and necessary in the transportation field?

D: Yes, I think that's right.

M: I've read also that there was a Presidential directive or order about records disposal which affected the ICC. Do you remember anything about that?

D: No, I don't know what you're talking about.

M: Well, again, this is something I've picked up from newspapers. There apparently was some sort of Presidential order, or an order initiated by the President, about what you should do with old records and where they should be stored and where they should go.

D: I think probably that maybe the General Services Administration record or something. You know, the buildings would finally overflow with stored documents if you weren't permitted to discard the stuff after it becomes five, ten, or twenty years old. It was some sort of a rule, I think, about that but that didn't refer to the ICC except as it was one of the many agencies. I think that was a general order; maybe it came out of the General Services Administration. I see no effect whatsoever that those orders had on the operations or the philosophy of the Interstate Commerce Commission.

M: Let me ask this. In your work as a commissioner, what do you spend most of your time doing? Working with railroads or what?

D: No, the great portion of the time here is spent working with trucks. There are so many more trucks than there are railroads. We have some six or seven thousand applications a year from the various truck lines of the country, where--I haven't counted but maybe let's say a thousand applications from railroads. So the volume of work here is spent with the trucks. And we have some applications and petitions from barge lines and from pipelines.

M: Are these to set up routes or to regulate rates?

D: Both. Actually, the work of the Commission is multi-faceted. You can break it down into three general groups. One is routes, the extension of routes, the changing of routes, or the creating of new ones; the second one is the rate structure, which we regulate by suspension. You would be interested in knowing that the Commission does not set rates per se. The carriers themselves publish rates and they go into effect automatically on a given date provided they're not challenged by someone. If they're challenged and the question is appealed to the commission, then we can suspend the rates, investigate them, and after investigation we can veto them or we can let them go into effect if we feel they're fair.

M: Can you only act if there is a challenge?

D: That's correct.

M: So it would have to be like a court of appeal?

D: Well, no, an individual--if a truck line publishes it's going to increase its rates and one person whom it serves doesn't like the increased rates, then he can appeal to our board of suspension, saying that the rate is not fair, that it's too high or it's too low, and then we look into it. But you bear in mind there are several hundreds, maybe thousands, of truck lines operating in the country. And they can change their rates daily. If they had to get us to approve each individual rate, it would be an impossible thing. But if they're hauling for people in a certain territory and there's some particular item that they want to haul and they're hauling it t-o cheaply, can't make a profit at it, they may go to the shipper and say, "Now, look, we can't make it on this basis," and explain to him, say, "We're going to raise the rate effective sixty days from now." And they they publish the rate. If he understands that they've got to have it in order to serve him, then they don't protest,

and that rate goes into effect. They file with us copies of it. Copies are filed in the regional offices and here on every rate published, but there are literally thousands of them come in. And only the ones that are protested are the ones that we take a look at.

And then to go ahead with the third part, it's the financing end of it. In case two truck lines want to merge or one wants to buy the other, or two railroads want to merge, or one wants to assume control of the other--that's called a financial arrangement. Then we have several hundred cases a year like that.

M: It would seem that, just from a layman's standpoint, that determining the fairness of a rate or the fairness of a merger would be very difficult.

D: It is.

M: How do you determine whether a rate is fair? How do you judge that?

D: Well, in the first place, you try to decide whether or not it's high enough that the carrier can break even or make a slight profit out of it. If he can't, then he cannot over a long period of time afford to haul it. If his profit is too high, then it becomes a burden upon the shipper. But you just have to assemble all the evidence you can. We have a bureau of economics; we have a bureau of accounts; we get evaluations from them, these various bureaus. We have people who are statisticians, economists, and just the best brains that we can employ and bring into our staff to advise the Commission on what they think is just and unjust about any published rate.

M: How do you determine what is a fair profit? Do you have some idea of what this is? Is this 3 percent of the investment or--what is a fair profit?

D: No, we do not have a hard and fast rule as some, like the FCC may have with the telephone company. Because a truck line--for example, if he's a common carrier, hauls many items. And he may have a different rate for one than he does for another. The hauling of a chair, boxed, maybe will weight thirty pounds. But it'll take up as much room on a truck as a washing machine which will weigh four hundred pounds. So you have to have a different rate, maybe for furniture than you do for a washing machine.

And we have a great problem with toys--plastic toys. They're light and bulky. A teddy bear, you see, would take as much room--may weight six pounds boxed--would take as much room as a generator for a motor that weighed twelve hundred pounds. So can you say to the man, "Fill your truck up with teddy bears and haul them across the country for the same rate that you would haul generators?" You take it by poundage, you see, and somebody thinks they're discriminated against; but you take it by cubic feet, then the other fellow thinks he's discriminated against.

So it's difficult. It's a difficult matter. And we just have to do the very best we can. There's no simple rule; no sliderule by which you can say this is it. We have some computers here and they're helpful, but they're not the complete answer.

M: You also use those computers to process annual returns and financial statements?

D: Well, they're used for many things. A computer, as you know, can answer about as many questions as you can intelligently ask it. If you know how to ask it, they'll give you an answer.

M: So then computers are helping you as a tool in your work?

D: Yes, but again, you cannot get all your answers from a computer.

M: Well, now, it would seem that determining the fairness to a company and fairness to the public in regard to a merger would also be very difficult.

D: It is a difficult thing, and--

M: For example, the New York Central and the Pennsylvania Railroad merger, which got a lot of publicity.

D: That's right.

M: This would seem to be a difficult task.

D: That's right. And it's just like if you serve on a jury, you've got evidence on both sides. And when you get down to the end of it, eleven

people (the commissioners) have to decide yes or no. You have to weigh all the facts and all the evidence that has been submitted, all the arguments that have been made, and then ask yourself, "Is it in the public interest to do it, or not to do it?" And basically when you get through, that's what you have to make a decision on--will the public be better served?

Some people get the idea, "Oh, well, if you do it, they'll make more money." Well, of course, the American system is built on everybody trying to make a profit. But that's not the prime question. The question is: will there be better railroad service for the public if this merger is permitted than there is if it's not permitted? You have to project what will happen five or ten or twenty years from now, under the merger. What will happen if no merger is permitted? Yes, it's a big question. It's a difficult question. And we get all the evidence we can and then make a decision and hope we're right. Only time will tell.

M: On decisions like this, it's the entire Commission that decides?

D: Oh, yes, on all merger cases. On any case that affects transportation policy the commission decides--all of them. We do--with these many cases, we break up into three divisions and have three men on each division. And we decide many routine cases that way, but if it's a large case or if it's a case which is not so large but which might change policy or direction, then the division will refer it up to the entire Commission for a decision.

M: Which division are you working in now?

D: Currently I'm working on division three, but we rotate at the end of each year so I've worked on all three divisions--one, two, and three. There are three divisions, and I've worked on all three of them.

M: You also rotate the chairmanship, do you not?

D: Yes, that's correct.

M: And Mrs. Brown-- ? [Virginia Mae Brown]

D: Mrs. Brown is the current chairman.

M: Her appointment was rather unusual apparently--the first woman to be appointed to the ICC?

D: Yes.

M: This also seemingly was the policy of Lyndon Johnson--to appoint women, capable women, to important positions. Does this make sense to you?

D: Yes, it does. I think that's right. I think it was President Johnson's policy to appoint more women into government service, and I would point out to you--I don't think that throughout the United States he could have found a woman better equipped to become a member of the Interstate Commerce Commission. If you read the biography of Mrs. Brown, you'd know that she was Assistant Attorney General in the state of West Virginia; she was assistant in the Governor's office for several years; she was on the state insurance commission, a regulatory agency at the state level; and she was on the state's utility commission, which is directly related to the work that we do here at state level. Coming here was just a step up to the national level. She was a lawyer to begin with; she had worked in the Attorney General's office, which was law enforcement; she had worked in the Governor's office, which was executive work; she had been on two regulatory agencies in her own state. So I would think, I repeat that I don't think that the President could have searched the whole United States and found a woman better equipped by education and by training, and I'd

say by temperament, to serve on the Interstate Commerce Commission, than is Mrs. Brown.

M: What you have said would indicate that she has been easy to work with.

D: She has been a fine commissioner; she has carried her load; and she has done a good job. She is doing a good job as chairman.

M: Also involved with railroad regulations has been the tendency to get rid of passenger service among the railroads. Has this given you any great difficulty in the ICC?

D: Yes, that's a problem. And you said there has been a tendency to get rid of passengers. Yes, that's widely charged. The railroads, as a rule, deny that. They say they didn't leave the passengers; the passengers left them. That's their argument.

There's a case pending now which I shan't discuss too much because no final decision has been made on it. It's the Southern Pacific Adequacies Case, in which it has been widely alleged that the Southern Pacific downgraded their service in an attempt to get rid of passengers. The Southern Pacific has denied this, put on evidence, statements, and I must say because it's a pending case, I cannot discuss it.

M: Well, in a case of that nature, again it would seem to be difficult to determine the truth.

D: Yes, I would agree with you. It is rather difficult to know what's in a man's mind. Now if you can find where they have issued directives and you can get copies of it, ordering the folks to downgrade the service, that's one thing. But if some newspaperman writes a story based upon hearsay that he has picked up from various places but no evidence and just

say they've downgraded it, it makes a good story but it's not admissible evidence in a court or in a hearing before an agency of this nature.

M: I see. Have you had anything to do with the high-speed railroad transport of passengers between Washington and New York?

D: No, basically that is a function of the Department of Transportation.

M: The ICC didn't have anything to do with the regulation of rates for that?

D: We have to do, yes, with the regulation of rates, but as I recall, the rates are basically the same, maybe a little higher, on certain things. And again if they're protested, why we'll go into them. I'm not sure if the protests have been filed. They have not come up to the Commission level at this particular point.

M: You made the statement that the truckers provide most of your work load. Are their applications any more difficult to process or to work with than, say, the railroads?

D: No. I wouldn't say they're any more or any less, unless there may be, some time a small truck line who is just trying to get started and he's just trying to get his foot in the door and is not able to hire a competent lawyer. His application may come in in an incomplete form, you see, whereas a bigger truck line, with experienced lawyers, will have all the information in the first time. To that extent a small, new truck line sometimes is more trouble than the big one, because they all have to be given the same consideration. And if it's an incomplete record, then it has to go back for further modification.

M: Is there any area which you feel the ICC should have increased jurisdiction over that which it doesn't have now? In other words how should it change

the ICC to make it better? Or is this necessary?

D: I'll just leave that question for someone else to answer. That's sort of like, "Have you quite beating your wife?"

M: Let me ask you an open-ended question.

D: All right.

I've exhausted the specific questions I have about the ICC. Now is there anything I should ask you about the ICC and its function that I haven't asked, that you want to make a statement about?

D: No, I don't think so. Frankly, I had no idea when you came to see me that you were going to talk about the ICC.

M: Yes.

D: You've taken me by surprise. I see very little correlation between what I thought you set out to do and what you've attempted to do here this morning.

M: Well, to explain this project which I thought you understood. We are trying to trace Lyndon Johnson's political career and the developments in the period of time in which he worked, with Lyndon Johnson as the thread going through it. Now you've been in a commission which operated under his Administration and you're also a personal friend, but I pointed out at the beginning that Dr. Frantz was going to talk to you about the personal relationship--

D: Right.

M: --so I didn't want to touch on it, and that I would agree is probably by far the most important thing to talk about. But now I was asked to talk to you about the ICC.

D: All right.

M: So that's why I didn't--

D: I do want to make a statement now.

M: Now I'm not being antagonistic, and this tape you can restrict. Personally, I'm not going to pass on any of this information. I don't have any interest in it other than the job that I've been hired to do for the Oral History Project.

D: All right.

M: And so you have control of this. I'm not antagonistic. I'm just probing the relationship here with the ICC in the Lyndon Johnson Administration.

D: All right. I will make a statement. I served for three years and four months in this job under the administration of Lyndon Johnson. There was never a time to my knowledge when he tried to dictate or determine the policies or the action of this Commission. He respected it as an independent agency and sometimes I felt a little bit lonesome that he didn't know we were here. But I'm sure that was based upon the fact that he had bigger problems which he was facing and was trying to serve.

M: Very good. With that statement I think maybe I should call the interview to an end.

D: That's fine.

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By Willard Deason

to the

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