INTERVIEW I

DATE: November 2, 1969

INTERVIEWEE: IRVING GOLDBERG

INTERVIEWER: Joe B. Frantz

PLACE: Judge Goldberg's office in Dallas, Texas

Tape 1 of 1

F: Judge, tell us something about your background. Where you are from, and how you got to this point of being a circuit court judge?

G: I was born June 29, 1906 in Port Arthur, Texas and attended public school there. Then I went to the University of Texas in 1922, received my A.B. degree in 1926, entered Harvard Law School in the fall of 1926 and received my LL.B.--and I haven't asked that it be made a J.D.--in 1929. This was in the depths of the Depression, and jobs were hard to come by with law firms. I practiced a year in Beaumont, Texas with a firm then known as Smith, Crawford and Combs. I practiced on my own in Houston for about a year and a half. Then I went to Taylor, Texas, where they were having an oil boom that was really a boomlet, and practiced in the office of an uncle of mine by marriage, Harris Melasky, for about a year.

F: How do you spell that name?

G: M-E-L-A-S-K-Y. Harris A. Melasky. He'll be mentioned later.

I then came to Dallas and became house counselor for the Murray Company, which company was engaged in the manufacture of cotton gins and sold in all the cotton-producing states of the nation and abroad. After

being there about a year or a year and a half, I became associated in the practice of law with Martin B. Winfrey.

I was with him until I went into the navy in 1943. I went to boot camp and received a commission and was assigned to Washington in the office of the General Counsel of the Navy. I remained in Washington all of the time and was discharged in February [1946].

F: You must have gotten a fairly broad spectrum of experience there.

G: That's right, and was able to see--I'll go into that a little bit if you want to. While I was in Washington serving in the General Counsel's office, then-Congressman Johnson asked me if I would like to serve on a staff of a subcommittee investigating certain affairs of the navy [Special Investigating Subcommittee of the House Committee on Naval Affairs]. He was then chairman of this subcommittee of the House Committee on Naval Affairs. The chairman of the House Committee on Naval Affairs was the Hon. Carl Vinson of Georgia. I said it would be all right with me, and I worked on that committee under Congressman Johnson's general supervision. There were some naval officers and civilians who worked for that subcommittee. The special counsel of the subcommittee was a civilian, Donald Cook, whose name might have been mentioned to you before. He was a lay person. Anyway, I worked on that until I was discharged from the navy in February of 1946.

I returned to Dallas and for a short while practiced law with J. Cleo Thompson. [Actually,] it wasn't a short while, it was about three and a half years. In 1950 we organized a firm then known as Goldberg, Fonville, Gump and Strauss.

F: What was the third name?

G: Gump. G-U-M-P. The firm had several changes, but basically most of the members of the firm that I started with in 1950 were with me and I was with them in the firm when I was appointed to the court. I took the oath on September 14, 1966.

F: That gets you up to now then.

G: That's right.

F: When did you first get acquainted with Mr. Johnson?

G: As I recall, there were two sources, two people who were friends of his who were friends of mine. I mentioned Harris Melasky, who lives in Taylor and was a constituent of Congressman Johnson and a loyal supporter. Mr. Melasky supported Congressman Johnson in the early days when he was in the Buchanan race, as you know. Then I mentioned having been associated with Martin Winfrey, through whom I had contact with Congressman Johnson in the practice of law. Now Martin Winfrey was a very well known political figure in this part of the state. He did a lot of work in Austin, represented Anheuser-Busch.

F: Is that the W-I-N-F-R-E-E?

G: No, F-R-E-Y of Houston.

F: I get those two mixed up.

G: And you are talking about the same time. They were contemporaries in time really: Martin Winfrey and the other one. But, anyway, he was very, very well known in Texas politically, and nationally for that matter. His father at one time was police commissioner of Dallas and was very well known. He became friendly at once. He became a friend of Johnson's. I really can't tell which or whether it was the amalgam of

the two that opened the friendship that I have had with Johnson through the years.

F: This was before you went to Washington?

G: Oh, yes, this was considerably before I went to Washington. I went to Washington in 1943 and, of course, this goes way, way back.

F: Melasky must have stuck his neck out in that first campaign of Johnson's, because he wasn't a front-runner in Taylor.

G: I mentioned to you, I think, when we talked Friday night, that he was a person that if I were you I would interview. He is getting up in years. This we'll take out of the transcript, but, off the record, but for your information he is up in years. He ought to be interviewed.

F: He is still in Taylor?

G: He's right there. He is only thirty-five miles from you. He could come to you or whatever you could arrange on that, pretty simple.

F: I could go over there. There is no problem.

G: Talked to him this morning, as a matter of fact, just called.

F: Did you see Mr. Johnson intermittently? You were most of the time not within his district prior to going to Washington.

G: Very intermittently. That is exactly right. *Very* intermittently. My association with him that has any intimacy at all started really when I went to Washington. He knew I was there and, as I said, asked me to work on this staff. This staff was composed of about eight or ten people. As I recall it, there were two lawyers, there were two accountants, and we would do investigative work in connection with the civilian operations of the navy, particularly the shipyards.

F: Now what happens in a case like that? Would the navy automatically have a man on that committee or would BuPers [Bureau of Naval Personnel] have to assign you especially?

G: I would have to be assigned by BuPers and I was requested, if that is what you want [to know]. Johnson said that he would like to have a staff to assist him in this. And while we were in the navy and subject to their orders, we wore civilian clothes most of the time. We were doing these studies because we were talking to various people.

F: Were you kind of a House counterpart of the Truman Committee?

G: Yes, I would say so, remembering, of course, that this Truman [Committee] was a subcommittee of a Senate committee.

F: I guess the government got its money's worth out of contracts.

G: That's right. We were particularly concerned with manpower. That was a time when there was a great hue and cry about the draft. There were suggestions of hoarding of manpower by the navy and so forth, and the other components of the armed services. And we were wanting to find out how the shipyards were, and this led us into labor-saving devices and things of this sort.

F: Another education.

G: Yes. Of course, we had some accountants who were a great help.

F: Did Congressman Johnson take a pretty active part in the affairs of this subcommittee?

G: He most assuredly did. He read everything and wanted to know who was going and was on us all the time. "What have you done?" "Where are you going?" "What did you find?" Sometimes he'd call you up, "Come on up. I want to talk to you." You'd go up. We would file written reports, of

course. I don't have any copies. I'm sure they are available somewhere.

F: Did you have occasion to witness his relationship with Carl Vinson?

G: In a way I did. It was a respect[ful one], as a very young neophyte would have with an old seasoned man. The old man, I only saw a couple of times. The thing that always amused me about him if we went to his office, he'd get a piece of chewing tobacco and he had a spittoon and the spittoon was way away from him and he'd hit it every time. I say every time--the few times I'd see him.

F: He would have made a good gunner.

G: He would hit it right on the nose. He was one of the few men that I ever saw at close range that chewed and spit into a spittoon. While I'm pretty old, that's been out, too, for a good many years.

F: It sure has. Did he seem to be kind of a sponsor of the young Congressman?

G: I would think this is true. I think he was fond of Lyndon. He knew that Lyndon had a lot of energy and vitality and was going places politically. In fact we referred to him as the old gentleman, and I think he [Vinson] was a pretty good judge of horseflesh, and I think this is what he saw. He saw that he was doing a good job for him. One thing about Vinson, if you worked for him and you were doing a right job, my impression around Washington was he backed you to the hilt.

F: Then you came back to Dallas when the war was over?

G: I came back to Dallas when the war was over and just practiced law here.

F: Did you get involved in politics at all?

G: Only rarely. My primary interest, besides from philosophically being interested in it, and ideologically interested, [was] as millions of people are.

F: A concerned citizen.

G: That's right. Only I would say Johnson was my primary concern as far as a political figure goes. He and I had gotten to be pretty friendly in Washington. For example, he lived further out in Washington than we lived. And I would say more than half of the time, maybe three-fourths of the nights, he would actually take me home, and it was a pretty good drive. We would get to visit a great deal, you see. That's a thirty- or forty-minute drive and it was snowing sometimes, [there was] traffic. So not only working on a committee, but being up there right near him, I got to know him and all of his staff pretty well. He would drive me home and many a time we would pick up Speaker Rayburn, or we'd pick up Paul Porter, or we'd pick up a lot of the people that he was seeing, besides Texans.

I'll never forget one time when we were driving home and it was late, and just before we were leaving the office, I heard him call home and say he was bringing four or five people, or there were four or five coming out to dinner. It was eight or eight-fifteen at this time. And I said, "Lyndon, I want to ask you something. How do you keep Zephyr [Wright, the cook] this late?" You know, people worried about her. He said, "Irving, I'll tell you, don't tell Bird, but--she doesn't know what Zephyr is getting paid." This is a little sideline. But anyway, that's really when I became acquainted with him.

F: Did you all talk general politics on those trips, or did you talk Naval Affairs primarily?

G: Just generally about politics. Very rarely he might ask me something on a specific matter, but no great big problems or anything like that. Generally about politics and his friends and my friends and that sort of thing. He loved to swap anecdotes, of course, with these people. I know this is something that he did a great deal of.

Anyway, when he ran for office from then on, why of course I did everything that I could.

F: Okay, he ran in 1948, you know, in that very tight race for the Senate against Coke Stevenson. Did you help in any way in this?

G: Yes. I did everything I could and I'll tell you a little bit about what I know about it. One day after the second primary, not necessarily in chronological order, I was sitting at my desk about ten o'clock in the morning. The phone rang and a voice said, "This is Lyndon. What are you doing?" He very often started conversation with, "What are you doing?" I said, "I'm trying to solve a knotty problem," or made some crack like that. He said, "I want you to do me a favor." I said, "What is it?" He said, "I understand they are cheating me out of eight votes in Van Zandt county." I said, "What do you want me to do?" He said, "I want you to go up there and see if it is true." And I said, "Okay. I'm going to get somebody to go up with me because if anything comes of it, I want somebody to witness what happened." So I got a chap to go with me.

F: Do you know who it was? Do you remember his name?

G: A guy named Holley, I think, Lamar Holley. I'll check it, though, when we see the typescript. I haven't seen him in years. He is a lawyer. But anyway, I think he had run for office, and I knew he was interested in Johnson.

So I drove up to Canton and got there about noon, and everything was closed tight in this courthouse. Finally, rocking around about one o'clock, I found out that the county tax assessor was the county chairman. It was the time of the year when they were busy getting the assessment rolls. So I went in there and introduced myself, told him I was a friend of Johnson's, interested in his campaign and understood an error had been made. He said, "Yes, an error has been made," and he started telling me how there had been a transposition in figures. I said, "What are you doing about it?" And he said, "I haven't done anything. I'm awfully busy." I said, "This has got to take priority." He said, "What am I supposed to do, you think?" So I remember I wrote out, as I recall it, in longhand a certification that there had been a mistake and how the mistake had been made. The typewriters were all in use. I remember he signed it, and I sent it. And I remember Johnson had said one thing to me, he said, "If you get over there and you find there's a mistake and it isn't being corrected, I assume you know what to do about correcting it." He assumed--well, I had figured through what I thought of them. But he said, "I would like for the Texas Election Bureau to get the information." I said, "Well, fine." So I said to this tax assessor--this county chairman, I can't remember his name--"Would you call the Texas Election Bureau?" He said, "Well, I'm

terribly busy. If you get them on the phone, you call me." I had to use a pay phone. So, anyway, I got them and put him on the phone.

F: He knew, too, what a squeaker it was.

G: Oh, sure, he did. But I'll never forget what he said to me. He said, "You know, I tried the other night to call them. I asked for WBAP in Dallas." I said, "Well, WBAP is not the Election Bureau. It happens to be the radio station in Fort Worth." At that time it was. He just knew about WBAP. He didn't know WFAA. Anyway, we finally got it. Now that is one incident about it.

Of course, also in connection with that, I'll never forget: It was a Sunday after the Saturday of the first primary--in other words eight days--and I assume there had been other meetings around the state. But this was a meeting, as I recall, in the Texas Hotel from North Texas mostly, Dallas, Fort Worth. I know there were people from Abilene and I think Lubbock.

F: This is the Texas Hotel over in Fort Worth?

G: Yes. We had a meeting. I'm going to guess there were fifty or sixty people. Johnson was there. I think Connally was there. Anyway I drove over there with a friend of mine by the name of Ed Keefe. He lives in Midland now.

F: Ed who?

G: Keefe. I think he lives in Midland, Texas, a lawyer. He had been in the House [of Representatives] from Palestine. Anyway, he was a friend of mine. I remember saying to him on the way back, "Ed, I know I'm going to do everything I can and I know you are, but this looks like the most futile hopeless task." You know, this was a tremendous lead that

Stevenson had. I remember being *very, very* pessimistic about it as we drove back after the meeting. They were [saying], "We are going to make it," and "It's going to take a lot of work," just a pep rally, really, of people, all very close friends of his.

I think another thing: I think a lot of Johnson's friends--Johnson exacts, he gives and exacts great reservoirs of loyalty. I'm sure you have found this in other people that you've interviewed. If I were going to put my finger on it, I think he gives it and he exacts and I think this is one of his outstanding characteristics. He always had a group of people that were for him and not only just for him on paper, or glibly, but viscerally and basically.

F: In this 1948 second primary, of course, what you have is your Texas Election Bureau returns which show a very narrow lead for Johnson, but they have no official status. Was there anything to be done between the time that the Texas Election Bureau handed down its final verdict and the time that you actually canvass and certify the votes?

G: Did I have anything to do with it? No, I knew nothing about it. The only other thing I knew about this thing was I was involved in the lawsuit, if you want to go into that a little bit. But as far as the voting and all of this, I had nothing [to do with it].

F: [With] the mechanics of the election, except in Van Zandt County.

G: I've given you the only incident that I was involved with and that's my involvement, *period*.

F: Now you have got the contest. Okay, let's talk about that.

G: We've got the contest. We'll talk about that a little bit. As a historian, you know chance plays a very important thing in life, I

guess. It so happened that I had a client who was engaged in a tremendous antitrust lawsuit against the movie industry. I won't go into details. That's all you have to know about it.

F: Is this against old Interstate?

G: Yes, everybody, Interstate--and they all were in it--Paramount. There's no use--I could talk for hours. Anyway, we are fighting it here; we are fighting it in Delaware, and it was a big deal. Finally parts of it went to the Supreme Court. My client and I, because we were going to be up in Delaware, couldn't fight them all here. The fight was all over. We hired Abe Fortas.

F: That's how Fortas got to Dallas.

G: So Abe was in my office at the time that Johnson called, and Abe and I proceeded posthaste, as I remember it, to Fort Worth.

We were talking about the antitrust suit. We had plenty troubles, plenty problems.

F: I've interviewed Justice Fortas.

G: Does he tell you about it?

F: All he said was that he was in Dallas on some business when the call came and that he just went to Fort Worth as an observer, more or less. I mean, he didn't know what he was going for.

G: That's what we did, went over there and found out then. We realized after we got there what was going on and what the problems were, and so forth and so on. And, of course, you know--Abe, I guess, has told you everything that he did.

F: Was Johnson at that Fort Worth meeting?

G: Yes, he was there. He was there. Now most of the conversation--I had some conversation with Johnson--but we've got legal problems now, we don't have political problems at this stage.

F: Yes, I know it. That's what I want to know. Who is running the show in this case?

G: Alvin Wirtz was as key in this as anyone that I know. Alvin Wirtz, as I recall it, was there. I know I made one practical suggestion: I said maybe they ought to get somebody like Scarborough out in Abilene.

F: Dallas Scarborough?

G: Yes. I came up, I think, with that name. He participated as--see, this goes way, way back, do you know if he--?

F: I don't think he participated.

G: He did not sit in the courtroom?

F: I don't know.

G: Anyway, you might check.

F: This is the first time I have heard him mentioned in this case.

G: You know who he is?

F: Oh, yes. I knew his boys real well.

G: I'm not certain, Joe, whether he sat in the court room or not in the hearing, but I have a hunch. I wasn't at the hearing. I was working doing some research and reading. But I remember at a conference I said, it looked to me like you ought to have someone from West Texas. I made some remark and I got to thinking about loyal Democrats and so forth out there, and I just happened to mention him.

F: Was this an idea of countering the fact that Stevenson, to a certain extent, was a West Texan?

G: I just thought if you could--I hadn't really thought of that.

F: You were thinking of it statewide.

G: I was thinking, yes, I would like to get a good West Texan up there. I was really figuring some of us were from the East Texas and Central Texas and South Texas. Why not get someone in Abilene?

F: How did John Crooker get into this?

G: He was there.

F: Was he in Fort Worth?

G: As I remember it. Not Junior now.

F: Now I'm talking about Senior.

G: Senior. Yes, as I recall it, the old gentleman was there. I talked to him, I remember talking to him, I remember talking to Wirtz, and of course to Abe. There was a younger fellow, not Luther Jones, some younger man was around. I'll try to think when we see this typescript who else. I know we all ate. They sent out for the meal that night. I remember Abe and I left my office in the early afternoon, let's say at two o'clock. This is a guess; of course you know how long it takes to get to Fort Worth.

F: Was John Cofer there?

G: I don't remember John [being there].

F: That's a long time ago.

G: I don't know if John--I know John and I know that John got in it, but I'm not [sure]. But I remember the people you mentioned, Crooker and Wirtz. I just don't remember [the others].

F: One thing about Abe. Did he go along willingly? I mean, this is way off his beat.

G: Well, he was a fairly good friend of Johnson. Now his friendship with Johnson goes way, way back. You know all about that. When you say willingly, well, yes; I mean Johnson had asked us to come over, and we went on over. There wasn't any question about what this thing was all about. We got there. It just got to be a legal matter: "What could you do?" and "How could you do it?" and "Why couldn't you?" and so forth and so on.

F: Did you look on this as pretty much an open-and-shut case, or did you think you had some real problems to resolve?

G: Well, in those days, the legal relationship of a [political] party to the judicial branch, to everything, to other agencies of the government, was pretty amorphous. I mean, there's been a lot of law that we have had since then. The civil rights problem--this is not civil rights, but the civil rights struggle has defined very clearly these legal relationships. They were not that clear in those days. What could a court do to a party, or about it? Was it like a club? Not suggesting that it should have been, but this gives you [an idea]. To what extent do you interfere? Does the federal government [interfere]? The federal judiciary, can it interfere with a state election? This is a state election. Now we have had ***Baker*** vs. ***Carr***. There have been a lot of things, We are going way back. A lot of these things now we used to think were . . . .

F: I know it. That looks almost primitive now, doesn't it?

G: That's right. But that was not true then.

F: How far did you follow the case?

G: I had nothing to do with [it except] I conferred over there, gave them what ideas I had, looked up--I think I spent a little time in Dallas later--I can't remember when--researching a problem and reported it to Abe, or I don't know who I reported it to.

F: Did this session last pretty well into the night?

G: Yes. We didn't get home until, as I remember it, it was in the nature of two or three in the morning. That's why I said they sent out and got dinner or supper or sandwiches, and I know I didn't leave the room from the time we got there. I didn't go around the block. We stayed there, I would say, my guess would be twelve hours. Pretty intense. Everybody was there.

F: Had it pretty well wrapped up what you wanted to do?

G: We were charting and talking about what we thought the legal relationships were, what we hoped they would be, what we could do and couldn't.

F: Did you leave feeling sort of confident?

G: I thought, as far as the law was concerned, yes. I didn't have too much concern about it. Of course, you don't know what a judge is going to do. I'm one now, and I can assure you of that. There was an old man on our court the first time I saw him--he's retired now--he said, "I want to tell you something, Irving. Most of the cases that you are going to be hearing, you could decide either way." This is a very wise statement; it has a great deal of truth in it. Most of them are very close, there's some that are like this, but most of them are really races. That's what makes life interesting. That's about all I can tell you about it. Of course, I kept up with it. I don't even know if they sent

me copies of the briefs that were submitted to New Orleans and to New York. I don't think I have that.

F: So you went on then with your regular law practice? Did you have any relationship then with the future campaigns? He had one then in 1954 which was pretty much of a breeze, against Dudley Dougherty.

G: Yes, it wasn't much of anything. I would see him. He would call me up at times. I would call him up when I would go to Washington.

I became very friendly with Walter Jenkins. He and I were very close friends and our families [were]. When we lived in Washington, we used to see the Jenkinses a lot, and I have maintained that friendship with Walter. I never fail to see Walter. We'd generally go to dinner or lunch together whenever [I went to Washington], and of course I would go in to see Lyndon, just talk to him and so forth.

One day late in the afternoon, I can't recall the year, but you can tell me the year, Lyndon called me and he said, "What are you doing?" He always said, "What are you doing?" And I said, "Well, I'm working." He said, "I would like to see you for a few minutes." I said, "Where are you?" And he said, "I'm at the Baker." He used to stay at the Baker. I said, "What is your room number?" So I went up there. And he said, "I want to ask you a question. Do you think I ought to be majority leader?" What year was he elected majority leader?

F: He was elected minority leader after the 1952 election.

G: Then it is minority.

F: He held that for two years and then in the midterm of the first Eisenhower Administration they had an overturn. That's when he moved up.

G: To majority leader.

F: Yes.

G: Well, then, I'm talking about minority leader. He's just an ordinary senator when he called me.

F: Junior senator, really.

G: The issue really wasn't central to what he was asking--whether he was minority or majority. He was going to be the leader of the Democratic Party of the Senate. That's the important thing. Should he do this? And I can remember saying to him, "Well, I know that this means that you'll be taking a position on everything, but if you are going to move up politically, you don't backpedal." This was the first thing, and the second thing I said, "You know, if they want to crucify you for one vote or ten votes or fifty votes, they will crucify you for that whether you are leader or not." I said, "I think, from a purely political point of view, that if you have got a contribution to make to the country and the legislative field, this is where you will make it, not as senator. I mean this is where I think you will make the real impact."

F: He realized that he was going to be representing more than Texas then in that position?

G: That is right. I said to him, "If you are going to move up in a national position, you are going to have to take the national positions. If not, you will just be an ordinary run-of-the-mill senator."

F: Did he give any indication--?

G: No, he didn't tell me. He said, "I have talked to a few of my friends, and you know I always want to know what you think." I am the kind of person, Joe, if a guy wants to tell me what he thinks, it is fine with me, but if he doesn't want to, I can well understand it. I had an

engagement or something that I just couldn't break, and he kept saying that he wanted to talk just about [it] as a family. You see, we were pretty close as a family, too. I even gave Lady Bird a transfusion once.

F: Oh, really?

G: Anyway, we had a close personal relationship. I would say it was more personal than political. Bird very often would ask me what did I think about something--business--

F: Was he pretty good in those kind of in-between years at staying in touch?

G: Oh, yes. You mean with people?

F: Yes.

G: Very. Pick up the telephone, call you.

F: He didn't wait for the need for Irving Goldberg to arise, and it's the first time Irving's heard anything out of him in three years.

G: No, in fact he would always say to me that he didn't understand why I didn't come to him more. It was very simple. I didn't want to bother him. He was busy. I never wanted to bother people, never have wanted to. I don't think he ever understood that. I really think it is the one thing that we never did--

F: You could work out most of your problems yourself.

G: But why should I worry him? I mean, he is a busy man. He said to me, "I don't see why you don't call me up," when he was down on the Ranch. I don't call a man that I want to come down to see him. I'm sure he had a lot of people to see, but we were down at the Ranch a couple of times when he called *us*. That's about that.

F: Did he ever discuss in your presence at all any ambitions, when 1956 came along, about possibly being a dark horse candidate?

G: I'll tell you my only involvement in that. Johnson never discussed it. I received a call. I think it was from Warren Woodward, but I am not sure. I know that I received a call.

F: Warren joined him in 1948.

G: Yes. Well, you are talking about 1956. You are talking about the convention. You're talking about Los Angeles?

F: No, this is before this. I'm talking about the one where Kefauver and Kennedy--

G: Oh, I was there.

F: And Adlai was, for a second time.

G: I'm sorry, I will go back. You see, these years! All right. Yes, I was at the convention.

F: As a delegate?

G: No, Walter asked me to come up, and I was with Walter all the time. Being with Walter, I would see Johnson all the time--I say all the time; you know, in and out. This was in Chicago--you are talking about that?

F: That's right.

G: I was there, helped Walter answer the phone. I was just kind of helping him out.

F: What kind of setup did you have there in Chicago?

G: As I remember, it was little.

F: A small suite?

G: No, it was off the floor, you know, as the counting was there. It seemed to me it was in another building, but you could get from that building to where they called the Stock Yards.

F: Yes, convention hall.

G: Convention hall. It was very small. When more than two people came in, I would stand up. That's right. I would sit there and man the phone, and I remember one time somebody wanted Johnson and it was important. I knew that he had a room up in the Stockyards Inn and I knew the number. He wasn't in that room and I knocked on all the adjoining rooms. I remember I saw some of the big shots talking, but I was looking for Johnson and I never did find him. I think he was coming as I was going. Jenkins said, "You please go up there. I know he is in his room or he is going to be in somebody's room on that floor." But I never did find him. This, I think, was when they were talking about the vice-presidential thing. All I really did was kind of talk to people that would come in.

F: Did you get any insight at all on why he led the Texas delegation to throw its support to young Kennedy over a fellow Southerner named Kefauver?

G: No, I did not know. I was not privy to that decision. I do not know, so it would be pure speculation. Mine would be no better than yours, a lot less reliable.

F: Were you ever involved in any of these state convention fights? There was a pretty bitter one up here in 1956.

G: Let me see, the conventions that I went to as a delegate--I went to the convention in San Antonio. I did not go to the Fort Worth convention. Harris Melasky did, I think, from Taylor.

F: To the Fort Worth?

G: Yes. Where [they had] the one-vote margin. That was Fort Worth, wasn't it, Joe? When the [State Democratic] Executive Committee voted to put him on the ballot by one vote, where was that convention held?

F: I believe that was Fort Worth.

G: I did not go to that. I went to one in San Antonio and I went to one here. Those are the only two. I was not really involved.

F: Was the one here in 1946 primarily a fight between Johnson and Rayburn on the one hand and Shivers on the other?

G: I wasn't involved.

F: You weren't involved.

G: Now that you mention it, I remember it, but I wasn't [involved].

F: Okay, let's move up to 1960 and talk about that. This is the Los Angeles meeting and this is the one where he either is or is not going to push to get the nomination for the presidency. There has been a lot of concern about it, you know.

G: That's right.

F: People don't know where he stands and what to do.

G: I went out, going to L.A. This is what I started talking about. I received a phone call, I think from Warren Woodward, I'm not sure. Warren asked me if I would help them out. They needed some manpower to talk to delegates to the convention. I said, "Where?" and he said, "We need somebody to go to New Jersey or someone to go to Florida." I said,

"Well, I'm not about to go to New Jersey unless you just make me. I don't know anything about it. I'd be an agent, it seemed to me, but let me see if I can go to Florida." So Bob Strauss, who is the national committeeman now, was my law partner. Bob and I went to Florida and spent, as I recall it, about a week talking to delegates down there. I was not a delegate to the convention, but went to the convention. Here again I was associated largely with Walter out there.

F: What do you say to the delegates when you go to Florida?

G: I would say to them that my loyalty stemmed from the fact that I knew that Johnson was a man who would give his best and do his best, and draw the best talent around him that he possibly could to decide these problems, and I think that if any one man could do it, I thought that his political philosophy would be certainly more in tune with what they wanted to do in Florida, with what the people of Florida wanted.

F: Did you go over a certain specific issues at times?

G: Not generally, I would try to do it on the man. I'd say, "Look, issues tend to fade away. Men resolve these things on the basis of what they are." You take any president of the United States in recent years and if you match his pre-election ideology with his post-election performance, if you had any sort of computer arrangement, you would get *very* little correlation. I don't have to tell you that, Joe. You know that well enough. And I really believe that.

F: Yes, I have often felt that certain necessities of office, if nothing else, determine a man.

G: I will tell you a great example of it. It's noncontroversial today, and that is Franklin Roosevelt.

F: Oh, yes.

G: Go back and study what he said, what he thought as governor and everything prior to the presidency. And then look. You would almost see a 180 degree swing.

F: I have always felt, for instance, if you had elected Goldwater in 1964 just sheer momentum would have moved him towards the center.

G: Had to, that's my thought about it.

I said, "You are dealing with a wonderful person, a great guy that I know. He is my friend and I'm here to ask you to vote." That's the way I would do it. Now, everybody has his own technique. I wasn't going to get into any ideological arguments.

F: How did the delegates react? Are they pleased to be contacted? Did they look upon it as a necessary nuisance or what?

G: That's very interesting. That is a good question. I would divide it into two categories: There are a lot of delegates that are not big shots.

F: They are a little flattered that you came from Texas.

G: Exactly! A lot of them were very flattered that we came, which is something a lot of people overlook. They think, sure, I mean, a Senator Smathers wouldn't care whether I came to see him, he would be glad if I didn't. But I maybe had little folks; maybe they were precinct workers. I don't presume what they were really . . . state senators--

F: You were just given a name in Ocala or somewhere.

G: That's right, and you go. And I find that for the most part they were flattered and glad to talk to you and would go to no end of trouble to accommodate to your convenience. I mean, you just have so much time.

Incidentally, going back a little bit, I ought to tell you this relationship with Johnson during the Korean war, this investigating thing was still going on. Of course, I had long since left, and Johnson wanted to do a manpower study [on] what the draftees' attitudes were toward their induction, how they were treated. Their morale, I would put it, if you use the word like that. This is interesting because it shows how Johnson works. He called me one night and he said, "Irving, I want you to come back with me. Come back and work for the committee for a month." He told me what he wanted to do, what study he wanted to make. He said, "I'm going to set it up like this: I'm going to call eight of my friends that I have confidence in and who have done some work, or who I've had some relationship with, to give a month away from their practice." Well, it was an awful thing on me, but anyway I arranged it.

There were eight of us. We divided the country up into four parts. I went with a man named Paul Popple, who was on his staff later on when he was president. Paul and I took all of the West Coast. We took the Marine depot in San Diego, the naval base at San Diego, and we took Camp Robert [?]. Now you are not interested, but this indicates that he wanted people that he could rely on, who would give the facts, that he thought were intelligent and would come up with what the answers ought to be to some of these things. He never told us what to find, never suggested anything that we did. He wanted us to come up and tell him "what's the morale like?" He liked for you to summarize it for him in three or four sentences. Well, sometimes you can or you can't, but that's neither here nor there on what we are talking about.

F: He had no trouble getting the eight together.

G: He had no trouble getting the eight together.

F: It was like asking for a tenth of your income, in a sense.

G: I said to him, "Well, Lyndon, there is one thing I want to know. I want to be sure that I get out of this thing in a month." I was going to put on a navy uniform. He was going to have me called back in the navy for this, because it was another way to save some government funds, I guess.

F: Did you?

G: So I went back in the navy. And I remember saying, "How am I going to get out of this thing?" I said, "You may be not here. I may not be here either, but how am I going to get out?" He said, "I've already taken care of it." I said, "What did you do?" He said, "I've told Rayburn about it. Now both of us are not going to be gone." I said, "Okay, I've got to be double insured, double coverage, and all that." But that's about that.

Now, getting back to the convention in 1960, Bob Strauss and I went to that convention. Neither of us were delegates. When I got there I was told that I should work with [Gerald Siegel]. Has anyone mentioned Gerry Siegel to you?

F: Yes.

G: Gerry is a very good lawyer. They said to me, "Now if Gerry wants any legal consultation"--I knew him well, we were very close friends--"you and he work together on anything he might want to do that comes up of a legal nature, anything that might arise." Well, nothing really [arose]. He never had occasion to ask my opinion about anything of a legal nature. But I was with him a lot and we talked a great deal. In fact

[I] rode out with him to the coliseum where Kennedy's acceptance speech was given, in Los Angeles. I had rented a car and he and I rode out there. We spent a good deal of time together. But really at the convention, I was supposed to be the Florida expert. I spent a week in Florida with delegates, which hardly qualifies a man as an expert on Florida politics.

F: You were more expert than anyone else, though.

G: But a very interesting, I think curious, thing happened. I often think of it. In the Florida delegation there was a man named Millard Caldwell who at one time was governor of Florida, at one time was a congressman. A brilliant man, really brilliant, conservative in many ways, but brilliant. He was one of the delegates that we had spoken to, and I kind of liked him and he kind of liked me. One day he called me--he found out where I was in Los Angeles--and he said, "I would like to see you for a few minutes." So I went to see him. There were a group of us. I don't even remember who they were. There were five or six people, and there was one congressman, I know, and there was a man from Georgia. "We want to stop Kennedy." And I just said, "Well, what do you suggest?"

F: What do I do, huh?

G: He said, "Well, we want you to get us in to see Sam Rayburn." It struck me as awfully strange. They had been in the House with Mr. Rayburn, why would they need me? So it so happened that I knew Rayburn's secretary at that time, his administrative assistant. I can't remember his name either.

F: Was it D. B. Hardeman?

G: Hardeman? I'm just not sure. I'll double check. But, anyway, I called him up and said, "I've got these people. I don't know if Mr. Rayburn wants to see them or not." He said, "Oh, sure, come right up." We were all in the same hotel and we went in to him. And the funniest thing happened in the elevator going up. Millard Caldwell said, "You be the spokesman." They had asked for the meeting but said, "You be the spokesman." So we get in there and I said, "Mr. Rayburn, this group--what they want you to do is to get Truman to come to the convention." They had told me this. Truman had already said he wasn't coming; Rayburn knew he wasn't coming.

F: Yes.

G: So anyway, Rayburn had told them that he knew that he wasn't coming, but that he would take their suggestion under consideration, you know, and they were happy because Rayburn gave them an interview. That was really what I think the whole thing came to. We walked out of there. But that's the only real--

F: Rayburn hadn't given them any encouragement?

G: He didn't think there was anything to do as far as getting Truman to come. He didn't know. He said that he did *not* think that Truman would come to the convention. What he based that on, I never asked him. But I certainly left there convinced, as far as Rayburn was concerned, that Rayburn didn't think he was coming. He didn't say whether he wanted him to come or not.

F: Did you pretty well pick up the feeling that you couldn't stop Kennedy?

G: Oh, yes. Oh, yes. I was pessimistic on that. I didn't see how. To look at that convention floor, it didn't take much. . . . There were

Kennedys just all over the place. I didn't see how it could be done. Of course, there were a lot of things that I didn't know. I was a good deal of that time with Siegel and with Jenkins. Jenkins went out and had dinner with us the first night. We went to a restaurant out in Los Angeles. I'm trying to think. I'll try to think of something that happened in that restaurant that's funny--I can't think of who they are now, but I'll think of it.

F: Okay, good. Did you have any inkling at all that there was going to be a vice-presidential offer?

G: *Not one bit*. And I was not in on that meeting. Gerry Siegel told me, called me aside and said that he was going to take it, but this was after the newspapers were leaking it. I had gotten out of touch with Gerry. Now whether Gerry participated in the meeting, I do not know. I never did ask him.

F: Did Johnson's staff want him to take the vice presidency?

G: I would have said that from what I could gather they probably had divided counsels on this thing. Frankly, if I had been asked, I would have told him to. I expressed that opinion myself to some of the staff. I didn't know that he was considering it, but I said to the staff after the dinner--I said I don't want to be a I-told-you-so guy, but I would have certainly said to.

I remember in the hallway one day Lady Bird spotted me and called me aside and put her arms around me and said, "Do you think we did the right thing?" or something. I can't remember the exact words. But [she] invited an expression of opinion--this was after the event--and I said, "Well, you know, anything that you all decide to do, if I can

possibly help you, I'm going to do it," but I said, "Besides that, Bird, I think that if a man is asked to be the vice president of this country, he should accept it." I just feel that way about it. She went on by that time. Lots of people were crowding by, but that, as I recall it, was the very day that he announced that he would take the vice presidency. It seems to me it was in the afternoon about four-thirty or five.

F: Among the Johnson people, though, there was no great sense of elation, it was just a case of this seemed the best thing to do under the circumstances.

G: Yes, I think that's put very well, Joe. I don't think there was overenthusiasm, but I think that some of them thought he should do it. Of course, when I said this I was thinking more in terms that I thought that Johnson could make the difference in the election.

F: Yes. Then you came back home?

G: Came back home. Now we're now in 1960.

F: That's right.

G: And then I really worked. That's one campaign I did a little work in. I worked in the Kennedy-Johnson [campaign].

F: What did you do?

G: Well, Barefoot Sanders is a good friend of mine. And Barefoot was the local chairman.

F: I'm going to see Barefoot before I go home tomorrow.

G: I took his son to the game yesterday. I had an extra ticket.

So I helped out, raised a little money, went to some meetings when they made plans who was going to speak where. The day of the election I spent the entire day at headquarters answering problems that might have

come up of a legal nature; the right to vote, and so forth. I got down there at seven in the morning and stayed until the wee hours.

F: Now Dallas was pretty much of a divided city in those days. Did this give you any trouble, either socially or professionally?

G: No, this never has worried me. You know, if you live your life as a liberal, people accept you. If you have got one eye, they will accept you, if you've got other qualities that they like. You have earned your service stripe as a good citizen, as a decent human being; you can be a liberal and not be ostracized. I think there are ways of being a liberal; you don't have to go in with a bulldozer all of the time. Everyone has known how I have stood and I have never had any trouble. This is my view.

F: So you stayed right with the campaign. Did you work outside of Dallas?

G: No, never left Dallas, as I recall, never was asked to. Oh, I think Lyndon may have asked my opinion maybe once, as I recall it. He was here. Let me see, what was that he did ask? It had to do with a function and allocating tickets or something like this. No, Walter called me about this, you know, who is going to get them. And I said I think it would be a big mistake if the liberals didn't get a good share of the seats, and so forth. I can't remember the details on this. I know that Barefoot and I had talked about it, and Barefoot, too, was interested in this. And we got the seats, as I recall.

F: Was this feud between Connally and Yarborough as deep as it seemed to be, from your vantage point, or to a certain extent had the adherents of the two men intensified it?

G: I can't answer that question. I want to say this: I have always voted for Yarborough. You see, what people don't realize is that there has never been an actual confrontation at the polls.

F: Yes, I know.

G: Between Yarborough and Johnson. So I have always voted for Yarborough, but Johnson is a much closer friend. I think I'm an intimate of Johnson; I'm certainly not of Ralph Yarborough. It is that simple. I don't know. I can't answer that.

Connally I know. He is a friend of mine and when a luncheon was given for me, when I went to pick him up and we talked, we are personal friends, too. I have never, never been a political intimate of his. He has never asked me, for example, to help him in a campaign. Of course, I have always voted for him and he knew this. I may have made a contribution. But I have never *really* been what I would call his inner circle of political associates. I think if he listed his friends in Dallas, if he had one hundred names, my name would most assuredly be on the list, because he has been in my home and I have been in his home, but he has had other political associates. I *have* made contributions.

F: As the vice president, did Johnson stay in touch with you or did he get sort of pulled aside?

G: No, I saw no difference in this. Every time I would go to Washington I would always get to see him. In other words, it may be a few minutes, maybe a cup of coffee or something like that; I went out to the house a couple of times. No, I didn't see any difference, I couldn't see any difference.

I want to stress throughout all of this that when Jenkins joined the staff, when Jenkins came back from the war, I was still in Washington, still working on this committee, and Jenkins and I became very friendly. And anything really that Johnson wanted to say to me or I wanted to say to Johnson, I would rather say it to Walter because I know enough about life to know, yes, Johnson would speak to me, but I could get Walter any time I wanted him. And I know that if I wanted Johnson to hear something, if I told it to Walter I knew it would get to him *just* that way at a *time* when Johnson was listening.

F: Right.

G: Not thinking about something on the Pedernales or something else again. I have always, if I possibly could, talked to Walter just because of this. But we are awfully close friends. Of course, look what happened at [inaudible].

F: Did you get the feeling that a part of Johnson's troubles after 1964 were due to the fact that Walter had gone and that staff work had deteriorated?

G: Well, this, Joe, might be a prejudice. You see, I think Jenkins is one of the finest men I know. A great personal loyalty, he *never*, *never* considered anything for himself. "What is the best for the President?" If a man can give that kind of a judgment--he [Walter] is endowed with extraordinary intelligence, but if he even had ordinary intelligence, when you come to a problem and you are listening to the best minds and all you want is an objective answer, this is what Walter could get. Walter would winnow through and he knew who to trust, who not to trust, what discounts to put on this opinion and that opinion. I think he is

the best I ever saw. I don't want to be in the position of saying that the boys--I know [Marvin] Watson, I don't know him well. Maybe he was good, too. I never saw him perform. Jake Jacobsen, I think he is a pretty intelligent guy, and I like Jake. I think he is a smart man. But I just think Walter had almost an antenna for this whole thing, a very sensitive antenna.

F: The ideal administrative secretary.

G: Absolutely. He was self-effacing. If you had asked Walter at any stage up there, "What are you going to do after he leaves the presidency?" he wouldn't have had the remotest idea and he would have not been the least bit concerned. Because his job was to do this and when he came to that, he had enough confidence in himself to go make a living. That's all he wanted. I know this, I absolutely do. So he just had the best possible [qualities for the job] and I think he was very instrumental in many of the fine decisions that Lyndon made throughout his political career.

F: Were you present at either the Stevenson confrontation here, or the Johnson problem when they tried to cross from the Baker over to the Adolphus?

G: Yes. Let me see where I was. I was in the luncheon room waiting for him to come over. I did not see it. All I saw, as I walked in--this was some time before Johnson crossed, of course--I saw what seemed to me to be an angry group of people, and I saw Bruce Alger. I saw him with the people. To come here, you know, he was telling them to do this. But I did not see the [incident].

F: What was Johnson like by the time he got up to the--as I recall the banquet room was up on one of the upper floors in the Adolphus, about the sixteenth or twelfth, but somewhere up there.

G: I can't remember where it was. But I remember that he came in and I remember that he was very agitated and very much shaken but handled himself, I thought, beautifully. Most people would really have had great difficulty, but I thought he did a magnificent job. What he said, I think, was much calmer than I would have said. That's what I'd say. I was at the meeting.

F: At the time of the assassination, where were you?

G: This gets to the main point of the interview, I guess. Mrs. Goldberg and I were going to the luncheon. It was a beautiful day. We drove out to the meeting room and we went to our table. There was a great delay. One of the mechanics involved in arranging this [was] a man named Sam Bloom. Have you ever heard of him?

F: Yes.

G: He is my client and a good friend. And the delay kept on and on and on. People began acting restless. Nobody knew anything. I saw Sam on the ground floor. I had a table on the balcony because it gave me a better view. I liked it better. Anyway, I was up there, and I walked down-stairs and I said, "Sam, what is going on?" He said, "Well, there has been some kind of accident. We don't know what." He really didn't. And I said, "Well, this crowd is getting restless. I think pretty soon you are going to have to do something or say something." By the time I left him and was walking up the stairs, I heard an electronic radio. People must have brought these with them, I didn't know people did it,

but I heard like police calls and so forth and so on. Then I began hearing people say, "He's been shot," or shot at, I don't know what they said. In any event, I went up and told Marian and the people around me, and they kept delaying and delaying. I think Luther Holcomb finally made a statement about it.

I said, "Well, Marian, let's get on out of here as quickly as we can." So we went to the car and I said, "I'm going home. I'm not going to go on." So I went home. When I got in the house, I immediately went upstairs and flipped on the TV. I was in the contour lounge. I turned it on and the picture had not even come on. I just turned it, hadn't gotten a picture, and the phone rang and it was my office, my switchboard operator says that the Dallas White House is trying to get you. I said, "Well, we better hang up." So I hung up and the phone rang within seconds. I heard, "Is this Irving Goldberg?" I said, "Yes." "Well, this is the Dallas White House. Hold the phone." Well, I held the phone, I kept hearing a lot of noise, booping and beeping around, I didn't know what it was. I hung on for about a minute, and I hung up. I thought maybe we missed connection. I didn't know what to do. Electronics is something I don't understand at all.

F: Yes.

G: Sure enough, the phone rang again and the same voice says, "Would you please hold the phone?" Maybe they had to do something, I don't know. Anyway, I held this time and pretty soon--it wasn't too long really--a voice says, "This is Lyndon." He said, "Irving, I want to talk to you. I want to ask some questions awful fast. I need some quick opinions." I said, "I'll do my best." He said, "First, should I take the oath here

or go to Washington?" I said, "Take it here." He said, "Who should give the oath?" I said, "Mr. President, you are now the president of the United States, in my opinion, by constitutional devolution, but I could be wrong. I would take the oath, though I think you are now the president." He said, "Who can give the oath?" I said, "Well, to be perfectly blunt, a notary public could give it, anyone that can take an oath. But I suggest that you have a federal judge." I was not a judge, of course. "I would have a judge." I don't think I said federal judge. He said, "Well, who do you have in mind? Do you have anyone in mind?" And I said, "I would have Sarah Hughes." He said, "I think that is excellent. Everything you said I agree with." Then he said the strangest thing. He said, "Will you try to get her for me?" To me, the President of the United States asking me sitting in my home, well this doesn't make [sense]. I said, "Well, Mr. President--"

F: The power of just saying, "This is the Dallas White House calling."

G: I said, "Mr. President, of course, I'll try to get her, and I'm sure you are going to try to get her. By the way, you haven't told me where you are." He says, "I'm at Love Field in ***Air Force One***." And I said, "I'll work on it and you work on it." We hung up and I thought for about a second or two, a half a minute, what to do. Then it hit me. So I called Barefoot and luck was with me. I knew his secretary. I said, "This is Irving Goldberg. I don't want any preliminaries. I want Barefoot now." She said, "He is here," and put him on for me. I said, "Barefoot, no time for conversation, listen to me and act. The President is at ***Air Force One***. He wants Sarah Hughes to swear him in. You find her. Use the FBI, use the Secret Service, use the Chief of Police,

you know who to use. I don't know who to use. You get her there." So he hung up, and he tells me he ran down to her floor. Well, anyway, he went to her office and she happened to be on the phone talking to her secretary when he walked in her office, so he was able to tell her exactly what to do and what it was all about. By this time I said to Marian, "Well, let's get in the car. You might drive." I was really shaking, I was really nervous. I don't know why, but I really was. So she drove the car and I said, "My God, we are sending that lady out there without a copy of the oath, so let's get to the airport, and I'll get Barefoot again." I said, "You just park the car and let me go." So I phoned Barefoot and I said, "Barefoot, we've got to get that oath out there." "Oh," he said, "she knows that oath." I said, "Barefoot, you don't carry an oath in your hip pocket. A man doesn't carry it, a woman wouldn't even have a hip pocket." He said, "I have the oath open on my desk. Everybody that could possibly be involved I've told." I think he said he might have told the Chief of Police, he might have told the FBI; he'll give you all the details, but he had alerted a number of people that he had the oath, which he got from the Constitution, on his desk. If they needed him, they could transcribe it if they had to have it, of course. But, as I understand it, they did not need it. They had the oath there. They got it from some other source.

F: They got it from Katzenbach.

G: Yes, but I had nothing to do with that. I did think about it, but I had nothing to do with it.

F: Then what did you do at the airport after you called Barefoot?

G: Well, this is a funny story. I got in the airport and, of course, I just never know how to talk to cops, I can talk to anyone but a cop. Of course I tried to identify myself. They wouldn't pay any attention to me. They wouldn't let me get any more near ***Air Force One*** than anybody in the world. I didn't have a chance. Marian said, "Well, you don't know how to talk to them. Let me try." Nothing happened. And I was looking around here thinking I would find somebody that I knew, like they were paging Jim Wright, they were paging Poage, they were paging everybody I could think of. I don't know who was paging them, but I never did see a soul that I knew at that airport. I thought it was an amazing thing, I never saw one.

F: Any other day of the year you could go to the airport and couldn't avoid--

G: See everybody! I didn't see anybody. But anyway, so that was all. I never got out. Went home and heard about everything. But that is it.

F: Then, as president, did Mr. Johnson get in touch with you any time in the near future?

G: No, I was in Washington--I don't remember when it was, within two or three months--and I went into his office and we visited. Marian and I went in and just kind of chatted with him. Here again we were going out with Walter. We went in and just had a few minutes of chat about how is everything, how are the kids, and so forth. He said, "You quit smoking cigarettes!" I'll never forget that. The Surgeon General's Report had just come out. He said, "I just read a summary of it. You better quit." I said, "I tell you, I have quit. Six weeks ago, I quit." Just a passing thing. "Oh," he said to me as I was getting ready to leave,

"Why didn't you get on the airplane?" Marian spoke up and said, "Well, it's a long story, but I'll tell you its summary: He doesn't know how to talk to a cop." And with that he laughed and we waved.

Then I would see him when I was up to a couple of state dinners and luncheons and things like that.

F: Anything in particular?

G: No, I was not consulted by the President. Walter would ask me but, by the President, I cannot recall anything.

Then I went, of course, to the Atlantic City convention.

F: Officially or unofficially?

G: Unofficially again, but I was there. But you know there wasn't much going on up there. I was not involved in the vice-presidential choice.

F: Which was the only big guess in place.

G: In fact, I was up there and that's one of the few times that Walter was so busy I only saw him a couple of times. He was tremendously busy. Well, you see, I suppose one of the reasons, the President was in Washington and I expect he was probably on the line with him all the time. I don't know this. I know that I saw Marjorie [Jenkins] a couple of times. I saw her at a cocktail party, but I can't say that my presence added anything to the Atlantic City convention. I could have stayed in bed or something. I had a lot of fun though. I met a lot of people and enjoyed it. But I had nothing really to do with what was going on. In fact, I took one day off and went to New Orleans to transact a little private business while I was up there.

F: What did you do during the campaign? Anything, beyond just being a loyal adherent?

G: Nothing really. Not much of anything.

F: When did you begin to get some intimations that you were going to be named a judge?

G: Really and truly, in the newspaper.

F: Oh, really?

G: President Johnson **never**, ***never*** discussed the judgeship [with me]. I had heard from any number of friends, mutual friends, that he wanted to appoint me, [was] very anxious to appoint me. As far as saying to you anything that the President or anything that anybody in the administration said about it, I don't know. All of my information really on this came from the newspaper; the Yarborough feud, and nobody asked me anything. I was amazed at some of the stories that appeared in the newspapers.

One day Marvin Watson called me and he said, "Irving, the President is sending your name in to the Senate for appointment." And I said, "For what position?" It could have been district, I really at that point didn't know. The papers were beginning to talk about circuit, but nobody [told me]. He said "For the Court of Appeals." I said, "Tell the President that I am honored and flattered and I hope I don't disgrace him," you know, some casual remark. You know the strange part about that is weeks passed and nothing happened. Nothing! Nobody said [anything].

F: Not even an announcement that it had been sent in?

G: It wasn't sent in.

F: It wasn't?

G: It was sent in about three or four weeks later.

F: So you just were in limbo.

G: I sat around. I went on about practicing law. Now once my name went in, then I had to get the loose pieces together in the practice of law and I started wrapping everything up.

F: Between Watson's call, you just went on like you were going to practice law forever.

G: I didn't know. He said, "Well, it's going in there today." It didn't come in that day. It didn't come in after the next day. I don't know anything about it, and I never have asked about that.

F: Do you know whether the President talked with other people in Texas about the appointment? Did you ever hear?

G: I don't know that the President did. I think that some of the people in the staff might have.

F: As you know, there is senatorial courtesy in this sort of appointment.

G: Sure. Absolutely.

F: In one sense, you had three senators, in that Johnson was from Texas.

G: Correct.

F: Then you had this two-party situation with Tower and Yarborough. Did that present any problem at all?

G: Well, a lot of my friends were telling me--you see, I have a lot of friends that are awfully close to Yarborough.

F: I know it.

G: And a lot of those people were saying, "You ought to help get Irving appointed." Yarborough never said a word to me, but I'll say this; when the name went into the Senate, Yarborough picked up the phone and called me and said, "I'm honored and pleased that you have been appoint-

ed." That was all. Then when I was in Washington in connection with confirmation, he was lovely and charming and gave a luncheon. I sat next to him, and so forth. On this, all I can tell you would be rank hearsay; neither Johnson nor Yarborough nor Ramsey Clark told me what was going on. This story, if there be one of any interest, you'll have to get from somebody else. I don't have it.

F: You just got a phone call.

G: I got a phone call.

F: And three weeks later you're wondering if you dreamed up the whole thing.

G: That's right, and that's all I know. Now I know that my friends were talking--friends of mine, friends of Yarborough's.

F: Yarborough didn't have a sort of a rival candidate then?

G: I can't say that he did. I'm going to guess for you now, and your guess is as good as mine.

F: It's a little more educated than mine.

G: My guess is that this was a package deal. In other words, there were a number of appointments at about the same time. There was [John V.] Singleton in Houston. There was [Woodrow] Seals in Houston. There was [W. M., Jr.] Taylor in Dallas. Now there was [Jack] Roberts in Austin. And [Ernest] Guinn in El Paso. Now, let's go: Singleton, as you know, is an old friend of Johnson's.

F: Yes.

G: I'm an old friend of Johnson's. Guinn is a good friend--I'm not saying that they are not good friends of Johnson's, but he is a ***very*** good

friend of Yarborough's, and so is Taylor. Taylor ran some of his campaigns. And myself. That's all I can tell you. That's about it.

F: You had no problem at all in confirmation?

G: No.

F: What did you do, have a sort of perfunctory hearing before the--what is it, the Senate Judiciary Committee that handles that?

G: Yes. Yarborough took us in, all of us, all at the same time, these five people. We all met in Yarborough's office, whatever the time was, nine-thirty or something. We went into the hearing room and Senator [James] Eastland was there, Senator [Roman] Hruska was there, I think just the two of them, as I remember.

F: Did the protocol demand that the Republican, the opposite party senator go, too, or stay out or what?

G: No, he just has to send in a blue slip saying that he doesn't object to you. And I never did hear anything about this. I just assume that he--

F: You never heard anything from Tower at all?

G: I had no occasion. Tower--I know the man when I see him, period. He doesn't know me. I've got some friends that are Republicans that are good friends of his, but that's it. I just assume that I wasn't anathema to him. That's all there was to that. I don't think there was anything.

F: In other words, if it's got to be a Democrat, Goldberg is as good as any.

G: That's right. He can live with that, too.

F: So you went to the confirmation. I presume the whole hearing then was pretty routine.

G: All Eastland said to me--I had given them a biographical sketch.

Oh, one other thing about the judgeship you ought to know, I guess. I did receive from the Department of Justice--this I want to make clear--a letter saying "You are under consideration for a judicial position." They didn't say what it was. "We would like for you to--"

F: This is after you've heard from Marvin?

G: No.

F: This is before?

G: Before. The first thing I hear.

F: That's the very first thing.

G: But you asked me what I heard from the President and his staff. The Department of Justice said give us a biography, they want a summary of some of my opinions, the important opinions. It was really quite a job to do. It took a day and a half or two days. I had to think about different kinds of cases, labor cases, tax cases, but I got up quite a volume, as I remember it now. I sent that and they said, "This doesn't mean you are going to be appointed." They said that twenty times. They were doing a study on it. That's obviously what they were doing. Then, of course--I forgot to tell you about this--the FBI did all that business. But that I did send up there, so I didn't want you to think that I was ignorant or that it came out of the blue from all official sources. I was really thinking more of the present. The Department of Justice had sent [that letter] and I sent that up. I would have to go back, but it seems to me that that letter was in about March or April that I wrote the Department of Justice, and I was not appointed until

deep June. Many things could have been happening in that period, but that's all I know about it.

F: Then after your hearing, how long before you actually got confirmation?

G: Oh, within two days. Let me see, I think I can think of this exactly. The hearing was, as I remember, on a Wednesday or a Thursday and we were confirmed before the end of the week, because I stayed up in Washington. Marian and I rented a car and drove up to the Catoctin Mountains. I never had been there and I wanted to see it. So it was all over. We talked a good deal that weekend about all the different plans, we would have to change our lives and all that stuff. She and I kind of rode the whole weekend, really.

But then I was sworn in on the fourteenth of September.

F: Did you get sworn in here?

G: Sworn in here; Judge Estes being the chief judge, and some of the other judges came down for the "coronation" as some of them called it.

F: Does the Attorney General's office in Washington take a really active hand in this, that is, in the swearing in and so forth?

G: No. The Department of Justice, I imagine, has a good deal to do about the appointment, but once you are appointed and confirmed, they have very little to do with it. And, of course, the afternoon of the confirmation hearings, President Johnson had all of us up to have coffee with him and Yarborough was present--all the new judges, the five of us. We had a delightful hour or hour and a half.

F: Where did you do this?

G: At the White House.

F: Where in the White House?

G: In the Oval room.

F: In his office.

G: You know, they had to put chairs in.

And the other thing about confirmation, when I went up there for confirmation, I went by the Department of Justice. They just tell you what the protocol is and so forth. They took me in to see Ramsey Clark, who took me in to see Katzenbach, at that time attorney general. That was all. Just a very delightful visit about general things in which Katzenbach said to me, "I think you are joining one of the great courts of the country." I have to agree with him, too. I think it has been a great court, a great courageous court in very trying times. People do not realize. I wasn't on it, so I am not speaking of myself. But they have had men of great courage who stayed with the civil rights--

F: Well, it's been a period in which obviously the country was changing. They're facing up to problems that have been put back and put back and put back.

G: That's right. It has been a great court. I was interested that Katzenbach even went out of the way to say this. I thought it was a wise--

F: Did you get any sort of congratulatory message or anything like that at the time that you took the oath of office, from the President?

G: I wrote the President a letter about that time. As a matter of fact, if I can dredge those out of the files, would you like to see them?

F: Yes, I would indeed.

G: Let me see what I have on that. I know I have a copy of them.

F: If I could have a xerox or something.

G: Yes, I'll xerox them for you.

F: Good.

G: Let me see what I've got. My secretary is the keeper of those files. I don't want to start getting into them.

F: Good.

G: But I think we can find them.

F: No, it's a foolhardy man that goes into his secretary's files.

G: Then she'd say, "Well, you've messed them up." But I'll get you what I can on that. I think you might be interested in that.

F: Good.

G: What I said to him, and he wrote me some letters; I think there's a letter or two.

F: Have you had any relationship with him since, more than just routine?

G: No, you mean since the presidency?

F: No, since your becoming judge.

G: Well, really, no, I can't say that I've had. I wrote him a note two or three months ago and said to him, whenever your period of rest is over or something, when you want to see old friends, I'm just a couple of hundred miles away, let me know or something like that. It didn't call for an answer or anything of that sort, but I just thought that I ought to let him know that if he wanted to see me, I'd be very happy any time. That's the way I felt about him. I don't know, my guess is that Lyndon is not seeing a lot of people.

F: No, he isn't.

G: You may know a lot more about it than I do. And I think, frankly, if I were he I would take the same position. But I just got to thinking that

maybe he ought to know that I was thinking about him and if he wanted, fine, but that's the way it is.

F: Right.

G: That's about it.

F: What does your circuit encompass?

G: Six states. Florida, Georgia, Alabama, Mississippi, Texas, and Louisiana. And the Canal Zone; we have very little business in the Canal Zone. But it's that six states.

F: Then I judge as a general rule it is a case of one circuit judge and two district.

G: No, our court sits in panels of three. We have in recent years, because of the pressure of business, used one district judge and two circuit judges.

F: Two circuit.

G: But this year so far, meaning since September, the judicial year, we are using only circuit judges. Now we don't know. We have got a new process--what you call screening cases--which may be of no interest here, which may reduce some of our workload. It will be a different kind of a workload in any event. We are going to screen cases out so we do not get an oral argument. We think they are unimportant, or if the briefs are adequate, we don't need it.

F: Yes.

G: This, of course, would let you to hear a lot more cases and so forth. We think this will permit us to only use circuit judges. But it's experimental; it may be wrong and we don't want to say it is for certain.

F: You must spend a lot of time on the road, then?

G: A good deal. When I first went onto the court, I was gone nine weeks. This time we hope to cut it to seven even using all circuit judges under this theory. But in addition we have *en banc* hearings. For example, we are going to have an *en banc* the week of November 17. All fourteen of us have set out to hear desegregation cases in all the states other than Mississippi, which went up to the Supreme Court. This will involve some districts. In other words, we went to the docket and found the cases that involved other states, thought we ought to hear them at the same time. They might have common problems. So we are going to hear--I think it is thirteen of them. We have got to start working on them next week. I haven't really read anything about them yet, except to know that they are on it. But those take an *en banc*. And then there's another thing. Now the three-judge courts, that's when the constitutionality of a state statute or a statewide policy is in issue. And for Interstate Commerce Commission orders, it takes a three-judge court consisting of one circuit judge and two district judges to pass on that constitutionality. That's what you read about in the paper all the time. I have been to Austin on some of those, Austin, San Antonio. We get a number of those. That takes up time. Of course, I have been as far away as Jackson, and then I went to Biloxi, Mississippi on one involving taxation, tax on gasoline.

F: I ran into Ralph Curry yesterday.

G: Did you?

F: You had heard one that he was presenting that he lost.

G: Yes, the Interstate Commerce cases and these others. Yes, Ralph, I remember it was an ICC case.

F: Right. Okay, thank you, Judge, very much.

[End of Tape 1 of 1 and Interview I]

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