INTERVIEWEE: PHILIP R. LEE (Tape #2)

INTERVIEWER: DAVID G. MC COMB

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M: This is the second session with Dr. Philip R. Lee, who was the assistant secretary of Health, Education, and Welfare for health and scientific affairs. The date is January 28, and the time is 9:40 in the morning, and I am in his office. My name is David McComb.

To start off with in this second session, you mentioned that Lyndon Johnson had an impact in the Department of Health, Education, and Welfare with regard to civil rights, and I'd like to ask you what this is and have you comment on that.

L: I think we have to go back to 1966 really. Medicare went into effect on July 1st of that year. And at the time it was debated in the Congress and discussed, there was very little discussion of the potential impact of the Civil Rights Act on Medicare in the integration of hospitals, as well as other health facilities. This matter did not really receive a great deal of attention immediately when we first began the discussion of Medicare after it was passed and in the fall of 1965. However, by the spring of 1966 with Medicare due to go into effect in July, it was evident that many hospitals were not coming into compliance with title 6 of the Civil Rights Act. These were mostly in the South, but there were some outside the South.

And on the 8th of April, Secretary Gardner asked Mr. Cohen, Mr. Ball, Mr. Gorham, who was then the assistant secretary for planning and evaluation, or as they called it then, program coordination, and myself into his office to review where we stood on this matter. That's one of the few times that I've

been chewed out by the Secretary. But he let us know in no uncertain terms that he was not at all satisfied with the progress that had been made up to that time; that he wanted us to devote whatever resources were necessary to assure maximum compliance on the part of the hospitals--optimal compliance--so that the Medicare beneficiaries would in fact be able to take advantage of the benefits. And of course you had the question of would you lower the standards as they related to civil rights, would you make some modification, would you soften this position of the department in order to make more hospital beds available, in order to make the hospitals available. Well, the Secretary was absolutely firm in his decision that we would not do so, that the issue of civil rights was too important to compromise.

After that, we organized a program and the surgeon general took personal charge of it with his deputy actually running the program full time. We provided top level staff from the Public Health Service, and began a very intensive--far more intensive than we had up to that time--educational program, and a program of working with hospital associations. We made an effort also to work with the American Medical Association. We got excellent cooperation from the state hospital associations, as well as the American Hospital Association. We did not have the same kind of cooperation from the American Medical Association at that time, and it's only actually this year--or late last year, 1968--that they developed a strong civil rights program within AMA. So it's not surprising in 1966 that they did not.

M: Why did they delay on that?

L: Well, it's a matter of their believing that the states had the autonomy, that the state medical societies really were autonomous, and that they shouldn't interfere with authority of the state medical societies.

The question in the spring of 1966 as we came down the wire on Medicare was would the President support the Secretary on this stand. And of course there was plenty of pressure put on the Secretary to modify that position. There was plenty of pressure put on me, put on the surgeon general, put on the Social Security Administration.

M: Did you concur with the Secretary?

L: Oh, absolutely. And of course we followed his orders. But there were few areas where he ordered as directly as he did in this. There was just no question about the importance that he personally attached to it, and you might say he was out on a limb on this issue.

Then we pursued this matter vigorously through the spring. And on the 15th of June--two weeks before Medicare was to go into effect--there was a meeting at the White House where medical leaders from around the country were asked to come. This included hospital leaders and practitioners. The President in no uncertain terms--and I unfortunately don't have the statement he made, but it's available--made it abundantly clear that he fully supported the position of the Secretary on the matter of integration, and compliance with title 6 of the Civil Rights Act.

There was no question that that was the turning point in my opinion in the whole business. Up until that time there was a tremendous amount of pressure and resistance. After that many hospitals rapidly signed the agreements. I wouldn't say that the integration has been maximum or optimal, even up to the present day, but there was no question that as a result of that full support on the part of the President that hundreds of hospitals actually abolished previous segregation, in terms of hospital admissions, in terms of where the people were put in the hospitals. You know, they were randomly assigned, or assigned on the basis of whether they were sick with a certain kind of condition,

not whether it was a white person or a black person in the room. The lunchrooms were integrated, the bathrooms where dual facilities for all these things were abolished. Wards that had been previously totally segregated were integrated. Black patients began to be admitted in significant numbers in many, many hospitals in the South where they had not been admitted before.

Now of course the leverage we had was the fact that in many of these hospitals as much as 30-percent of their income would come from Medicare. And to lose that amount of income was just too great a risk to take, so they were willing to go along with the law. Now, some have never done so; some still don't participate in Medicare. Some used certain subterfuges to get around Medicare by admitting patients as emergencies--a couple of hospitals particularly in the South have done this. We've now tightened up on the regulations to make that impossible. But that's something we only learned by experience, but that was done by a relatively small number of hospitals. But here again was a situation where in the implementation of the Civil Rights Act, had the President compromised at all, we would have been lost.

M: Did you have to persuade the President to do this, or was he in support of integration in hospitals.

L: I would say as far as any persuasion, at least as I saw it, it did not appear to be necessary. The issue had to be laid before him, and I think this was done both by Douglass Cater, who was incidentally from Alabama, and also of course John Gardner. But I think that both of them made it abundantly clear that this was what had to be done. This really was the purpose of the meeting to not only let those doctors know who were there, but to let the country know. And of course that was a well-publicized meeting. We had been working with Congress. We had been up briefing various members of the Congress as to what

we were doing, why we were doing it. This was also the President's clear signal to the Congress of his support for these efforts. Because of course when you put the pressure on to integrate a hospital in a community, you not only heard from the congressman from the district, but also of course from the senators from that state. And often from the mayor, and also from the governor--other prominent people.

Many people felt that we were too aggressive and we pushed too hard, and things could have achieved the objectives being less abrasive about the whole business, but I think that in the main the job was well done. The people in the civil rights movement criticized us for being too soft. The people on the other side of course for being too vigorous, too rigid, too inflexible. But there was no question about the Secretary's determination to see this done, and the President's full support. And I think it was singularly important.

There has been a lot of feeling that much more in some of these civil rights areas could be accomplished, and to utilize this program--the Medicare Program--I think extremely well, to achieve this broad national purpose. It has made, I think, a very great difference. The attitude of many of the doctors today seems to me to be very different than it was in 1964 about these problems, even in 1965, and I think will continue to be. The fact that the AMA has changed its policy completely is an indication of the very significant change in attitude of the medical profession; and of course this is key I think also to making this a long-standing and making it a real change. And we're still working on that. We have a long way to go, and we're continuing the efforts. But that was really the crucial decision, that was the crucial point in the history, as I see it, of this whole movement as it related to hospitals and other health care institutions.

With educational institutions it's a more gradual process, and particularly with those that relate to the health professions. We're having a meeting this week to go over how can we assist the institutions achieve a greater level of integration. Many of them want to do this now, they lack funds, for example, to provide scholarships for Negro students and other minority students. This is a key national problem, it has to be solved by a national program.

M: This brings up this point of transition. You seem to still be working rather diligently. You say you're having this meeting, and you're going on with your work. And yet it's eight days after the inauguration of President Nixon.

L: Right.

M: And yet you're still in office, you're still working as you did before. What's your position in all of this? Are you preparing to leave office? What have you done to prepare the way for the Nixon people?

L: Several things have been done. Starting last fall, Secretary Cohen asked Ralph Huitt, who was the assistant secretary for legislation, Don Simpson, who was the assistant secretary for administration and a career civil servant, and Jim Kelly, who was assistant secretary comptroller and also a career civil servant, to coordinate the development of the transition from the standpoint of the department with the incoming administration.

M: Was this on Cohen's initiative that he did this?

L: Yes. There was assigned very promptly of course a liaison person at the White House. He communicated with that liaison person. There wasn't assigned early on any liaison person in the department. But we prepared a series for the three health agencies for which I have responsibility, what I would describe as briefing materials. This of course has been done in all of the departments. These materials were particularly developed for the new assistant secretary;

in other words, for my successor. And in that, we asked our operating agencies to describe their organization, to give brief biographical sketches on each of the key people, to discuss key policy issues, to lay out what they felt were the key policy issues, to describe the legislative proposals, to review briefly the budget, to provide relevant background materials. So that this will be really a reading file for the new people.

M: Cohen did this too for the incoming secretary?

L: Right.

M: Did this preparation go on at all levels?

L: At various levels, that's right. We also prepared and there were two days of briefings for Secretary Finch some weeks ago. We participated in those and discussed with him the problems. We didn't discuss organization and detail or any of the personnel or any of that sort of thing, but rather laid out for his advisory committee what we thought were the key problems that he would have to devote his attention to at an early point in his new administration. Since then I met with him the week before the inauguration. He was in here and has been spending most of his time since then, and with several members of his staff to discuss again with him not only the problems, but also to discuss the reorganization which we'd been through and the key people in charge of each of our operating agencies. Each of them is a career civil servant.

He then subsequently met with each of those people individually, and his staff met with them at greater length. They had meetings lasting from--well, in one case, it was only ten minutes because Finch had to go up to testify on his own confirmation hearings. In other cases, they lasted as long as an hour-and-a-half. So he has devoted a good deal of attention to these problems in the transition.

We also prepared from my office an issues book and a book describing this office and the organization in very broad terms, so that that's also available. That has been made available to Mr. Finch, it's also available to his staff, and it will be available to my successor.

I'm in a somewhat peculiar position because one of the jobs actually that I'm being considered for in California, he was on the selection committee. So he had to make a decision about that job prior to his talking to me about this job. And actually it made our relationship a very easy and comfortable one because he was pretty aware of what other people thought of me prior to our really getting together to discuss how long I would stay. And I indicated to him that I would stay as long as it was necessary for an orderly transition; that when they recruited my successor, then obviously I would leave.

They are this process now, they have been for some weeks, and as far as I know they have not yet--at least they haven't publicly named my successor. I have discussed with them a number of people that they have been considering, and I'm sure my judgment is only one of a number that they will take into account when they finally make this decision. Then I would meet with my successor, review the materials, spend whatever time was necessary, which I don't think will be a great deal of time, reviewing with him the problems and what are the things that he needs to get on top of promptly so that he can handle the job.

So far it has been a very cordial relationship. I think that the new Secretary rightfully has to begin to surround the job, and it's an enormous job. He's devoting his time now to the recruitment of his key staff. And once that's accomplished, then he can begin to get more into the substantive issues and the problems of organization, on legislative program, and the budget.

Now, he can't delay those things too long. But I think he has put first things first, and that's the recruitment. He's also not being hasty about the recruitment so that he can get the people that he feels are the most qualified for the jobs.

M: Do you feel that this briefing of Finch and his personnel has been useful to the Nixon people?

L: I think so. I think particularly useful were his discussions with the key operating agency heads. And those were useful not only to him, I think to size up the people that are going to be working for him, but also they had a very, very good effect on the morale of the people in the operating agencies. He's a very warm, intelligent, capable person, and also interested in the programs. And this was transmitted. The enthusiasm of the agency heads after they met with him obviously is transmitted to their staff, and that just goes through the whole organization. That's, I think, very beneficial. It's a lot better to do that early on than it is at some later point, you know, to go out and give a speech and say, "I'm all for you." This kind of personal contact early I think made a tremendous impact, and was very beneficial.

M: Is the department at this point rather apprehensive or anxious about what's going to happen?

L: Well, I think certain individuals are. I think that some more than others, but I think in the main Finch has managed, at least with our health agency heads, to transmit to them a sense of confidence, a feeling of interest in the programs, and a feeling that he is going to be somebody that they can work with, that he's not at all going to go backwards, that there may be some changes made--and I think that everybody thinks that there will be--but that this is a guy who will listen. He's a man who is very reasonable and intelligent, and I think that they feel that they've--

M: I would think that it would be very easy for a person, let's say, in your position in a period of transition where you know you may go to another job, loyal to an administration that's no longer in power, to sort of sit back and relax and let things drift. Now you apparently have not done that.

L: Of course I think that would be a great mistake. In my situation, as I indicated, Mr. Finch has the dual role. [laughter] Also, I think that the programs are so important and the problems are so difficult that to take a highly partisan position would just be a serious mistake. He obviously needs to have his own team in at the top. I think this is absolutely essential. To sit back and withhold information from him or to not make decisions that need to be made or to fail to communicate with him as I would with Secretary Gardner or Secretary Cohen, I just think it isn't good management. It just doesn't make good sense from anybody's standpoint. And I don't see certainly in any of our agencies much evidence of foot dragging.

Now, there was a little bit I think in the uncertainties in January before the change in administration. But again, the people who were in charge of these operations are so devoted to the programs that they're not going to slow the programs down; they're not going to slow down the selection of people that they think are key people for program areas. They're not going to sit on their hands and wait for the signals from the new administration. So that I think in general things have gone through the transition, have continued to move ahead quite well. I think that there are certain people, because there haven't been very clear signals given to them, who are still rather apprehensive. That doesn't happen to include, as far as I'm concerned, our health people--the agency heads. I think that they have been given really good assurance. There are some organizational issues, but we all recognized these. They are issues

that are out in the open like the future of the Food and Drug Administration. There isn't anything that appears to be going on behind anybody's back.

We also recognize that the Secretary, as I say, has got to surround the job. He has got his own staff working, looking at the problems, looking at the organization, looking at legislation. This is as it should be. He obviously doesn't want to take my advice lock, stock and barrel, or doesn't want to depend on me to really lay out all the alternatives to him. I think I could do a job of that. He'll listen to me on that, but he also needs to have an independent look, and he needs to also have this look at the Nixon health task force. But he needs something in addition to that. He needs his own examination of HEW, which is different than a task force advising from the President.

M: To that point, is there anything else that you care to comment on?

L: Just in summary, I think in thinking about the history of this period, my feeling is that in the health area, really very major changes were accomplished both in terms of legislation and in terms of attitudes of the public and the professions regarding the problems and what needs to be done and how we go about solving some of the problems.

During this period I think we've seen a recognition, a much broader recognition of the kind of partnership relationship between the various people who are involved in the process--the hospitals, doctors, the so-called health team, the voluntary agencies, and the government. In the past it has been sort of the view of the profession that the government ought to stay out of it. Well, there's a clear recognition now, I think, and a willingness on the part of many, many doctors to work with the government to solve the problems and recognize that there's a legitimate place for state and local government as

well as the federal government in the whole health enterprise. I think that has been a very important accomplishment.

M: Will it last?

L: Oh yes, absolutely. I don't think there's any question about it. You're not going to turn back the clock in this area. I think the momentum has just developed too important a pace, the moment is too strong to go back. Obviously some people would like to slow down the rate of growth--I think that's a perfectly legitimate area of concern and consideration--and examine where the private sector can do more of the job, or where private financing might do more. One of the areas is health insurance, and extending health insurance in areas where it isn't now effective. This is for low income people and it's for people who've got mental illness and other kinds of disabilities. Those are the kinds of issues that are going to be looked at.

I think that here the President played a very, very significant role. One of the most important things he did in this was appointing John Gardner as Secretary of HEW, because this was a person in whom private industry, the professions, the educators had enormous confidence. And despite the press of other problems in Viet Nam, in particular, that caused such a tremendous turmoil in the academic community, they never really I don't think lost faith in the Department of HEW and what we were trying to do. And I think that is very, very important. Despite the fact that we had to cut back on funds for the support of research, for example, we still maintained this extraordinarily good relationship with the people in the universities.

I won't say John Gardner was exclusively responsible, obviously the relationship had been built up over the years by Jim Shannon and other people in NIH--had a lot to do with that, but John Gardner's presence in this Department

during that critical period I think was extremely important. And it created a climate within which we could then operate much more effectively than we otherwise could have. This was true not only with the medical profession, it was true in working with private industry on the air pollution problems. John Gardner arranged a series of three meetings in which he met with the board chairman or the presidents of companies. He wouldn't meet with anybody else. If they sent their vice president, the guy wasn't invited. Either the board chairman or the principal executive officer had to come, or nobody would come. Well, they all showed up. And as a result of those meetings, there was tremendous change in attitude in industry of both the polluting industries and the industries--the R&D kind of industries who are interested in getting into the action--with respect to working with the government. That's just another example of the sort of public-private relationship.

These are intangibles that are hard to measure their immediate effect. But I think they will be in long range of very great importance. And of course this kind of thing in the President's speech at the University of Michigan, in his so-called creative federalism speech, he really set, again, the tone for this whole effort. He wasn't just talking about the role of local government or state government. He was talking about the role of the various components of our society, public and private, federal, state, local. And that broad tone, I think, John Gardner interpreted early in his coming to HEW as to what he saw as the meaning of this. And I think that had a profound effect on our relationships with the various groups that we worked with in the health field.

M: Very good. I wish to thank you for the interview.

L: It's a great pleasure. Thank you.

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