

INTERVIEWEE: JOSEPH J. O'CONNELL, JR.

INTERVIEWER: DAVID G. MC COMB

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M: Let's start with your background. According to my data, you were born in New York State at a place called Saranac Lake. Is that right?

O: That is correct.

M: In 1905.

O: That is correct.

M: Educated at the University of Vermont where you got a B.S. degree in 1926, a Bachelor of Laws from Fordham in 1930. Much later you got an Honorary Doctorate of Laws from Rider College in 1950. You passed your bar exam in New York in 1930 and became a member of the bar in Washington, D.C. in 1947. You worked as a lawyer, starting off in New York City in 1930 to 1933. Those must have been tough times.

O: Well, that was the beginning and the middle of the deepest depression, I guess, that anyone now living remembers. It was a tough time for lawyers as well as for everyone else.

M: You, shortly, 1933 to 1938 went to work for the PWA. Is that correct?

O: That's right. I came to Washington as a lawyer working for the Public Works Administration in late fall, November 1933. I worked for the Public Works Administration until 1938 as an attorney. I went from there to the Treasury Department as an assistant to the General Counsel.

It was while I was in the Public Works Administration that I first met Lyndon Johnson. Whether that's appropriate at this time or not I don't know. As an attorney in the Public Works Administration, I was

responsible for a number of rather large and important constructions projects among which was the construction of a series of dams by the Lower Colorado River Authority just north of Austin. It so happened that during the preliminaries and from then on--preliminaries of the construction project--Lyndon Johnson was a first-term congressman from the section which included Austin and the area where the dam was being built. And being in charge of the legal work, and there was quite a bit of legal work, of course, in connection with the lending of a substantial sum of money that was lent to the Lower Colorado River Authority, I first met Lyndon Johnson. I met him both here in Washington--I remember distinctly having dinner with him and the then mayor of Austin named Tom Miller. And the first Texas hat I ever saw was given to me by Tom Miller in 1937 or '38 while I was working on the Lower Colorado River project. That was the first time I met Lyndon Johnson.

M: Was he fairly anxious to get that dam project?

O: Well, needless to say, anyone in any district would be anxious to have a project of that sort. I'm not sure whether the project as such had been approved by the President and the Administration before Lyndon became a congressman. I know he was quite active in pursuing it during its construction. I'm just not too clear, but I know that during the construction phase of the project, and it was an important project. It was a public power project of significance and it had flood control aspects to it on the Lower Colorado River, but basically it contemplated a series of power dams on the Lower Colorado River north of Austin. Then, Congressman Johnson was terribly interested in it. He was always very interested in public power, I thought, and public

projects generally. He took a great deal of interest in this project.

It was by far the largest project in his district, I'm sure.

M: Do you recall if there were any problems connected with that project?

Any special problems?

O: No, other than the sort of problems that were always associated with that type of project because it was a new type of endeavor, a new type of relationship. The federal government was new in the business of lending and granting money for public projects, or for any kind of projects as far as that's concerned.

The Lower Colorado River Authority was a brand new adventure in state government in the state of Texas. It was the first public authority, I believe, that had ever been created by the legislature in the state of Texas to engage in a public power project. So it presented that type of new adventure. It didn't present any problems other than the day-to-day problems which always came up when the Public Works Administration was lending ten-twelve-fifteen million dollars or something of the sort.

Lyndon Johnson had a great interest in the project, and the government had a very great interest in seeing to it that the money was wisely spent. We had a project engineer on the project. The general counsel for the authority was a man named Alvin Wirtz who was a close friend of Lyndon's and a good friend of mine. He later became Undersecretary of the Interior, as a matter of fact, a very well-known lawyer in Texas at that time. He is since dead. But I can't think of anything about the project which was peculiar other than as I have described it.

M: Do you recall if President Roosevelt supported this project?

O: Oh, yes. He not only supported it, the project could not have been

approved--would not have been instituted--without his specific approval. Not because it was Texas, or because it was Lyndon Johnson, but because in this period of time, every Public Works project which involved the expenditure of a million dollars or more--or some such figure--was submitted to the President and was approved by Roosevelt before it was instituted. That was for all major loan and grants projects after the first couple of years of Public Works which was after 1935, let us say. Mr. Ickes was Administrator of Public Works. But the President had a great interest in public works of all kinds. He literally followed the projects, and I suspect the President knew as much as I'm telling you about the Lower Colorado River Power Project, as he did other major public projects throughout the United States.

Of course, it was also true that Lyndon, as a freshman congressman and thereafter, was one of those younger congressman who was thought to be, and I always understood to be, quite close to the President. They were friends, and he used to be in and out of the White House on occasion. Beyond that, I wouldn't know any more about the relationship between the President and this project, but I do know that the President specifically approved the project.

M: Did you have any other connection at that point, with Lyndon Johnson on any other projects?

O: No, that was the only one. I had a series of projects in other sections of the country--the bridges and tunnels around New York and some of the public projects in Florida and other sections of the country. I more-or-less majored in the offbeat projects. The bulk of the work of the Public Works was orthodox, routine types of loans and grants to school districts,

cities for water works and sewer projects and that sort of thing. But this field, the power field, and the general field of public authority, as distinguished from the community, to build a project was a relatively new thing. My field was primarily handling the financing arrangements of the offbeat projects such as those which involved authorities, whether they were bridges, tunnels, power projects, or what. This was the only one I had in Texas, as far as that's concerned.

M: Well, then, in 1938, you went to work for the Department of Treasury.

O: That's right.

M: And you were a counsel for them?

O: Well, I came over to work as an assistant, a special assistant to work for the general counsel. I was hired by the general counsel to work in his immediate office. I successively was special assistant to the General Counsel, and then Assistant General Counsel, and then became General Counsel in 1944 where I remained until the late summer of 1947 when I left to go into private practice.

M: Do you recall any connection with Lyndon Johnson during that time?

O: Yes, I do, a few. Of course, as Assistant General Counsel and later as General Counsel, I had some occasion to deal with people on the Hill. I didn't have too many dealings with Lyndon Johnson because basically the Treasury activity was more with the Ways and Means Committee and the Banking and Currency Committee than it was with Naval Affairs Committee, which is the one I believe that Lyndon was connected with certainly at the time the war broke out in '41, '42.

I do remember the only time that I appeared before his committee that occurs to me, Lyndon had just been in the Navy because he was still

wearing his uniform. If I recall it correctly, he spent a few months in the uniform in the Navy in the Pacific and I think he and other congressmen were called back by the President. Anyhow, I know he was in uniform, and I know it was late '42 or '43.

In any event, as a representative of the Treasury Department I had occasion to appear before the Naval Affairs Committee because we were supporting an act known as the Renegotiation Act--which is still in effect--which was intended to permit the government to recoup from contractors excessive earnings from contracts which had been entered into prior to that time, usually under great stress and circumstance and very little opportunity to do a close job of bargaining. So the Renegotiation Statute, which was administered in part in its early stages by the Treasury Department, was up for renewal and it went to the Naval Affairs Committee. I remember Lyndon was there in a uniform and was one of our more understanding congressmen, if you will. It was an administration supported measure. He was quite helpful and particularly since another friend of mine, Melvin Moss, who was also a returned Marine officer was on that same committee and who was a Republican from Minnesota and was somewhat on the more or less critical side, but in not a too unfriendly way. That particular episode sticks in my mind because I had a couple of hours before the committee which were made a little pleasanter by virtue of the help I got from Lyndon.

M: In these first meeting with Lyndon Johnson, were you impressed in any particular fashion by his ability?

O: I thought he was a very able man. I really thought he was one of the better congressmen that I met. Of course, there were a lot of congressmen

that I didn't meet. There were other congressmen that I met that were impressive to me. I had a very good feeling for Lyndon right along, partly he was about very near my age, only a couple of years younger. He was one of the people to whom at that time, I think, the kind of person I was gravitated toward. He was attractive. He was liberal in his thinking, and this was the time--we are talking about the middle thirties mind you--when the world was in the throws of a great depression. President Roosevelt, whom we all revered, was trying very hard to get us out of it. People like Lyndon Johnson on the Hill were the kind of people that we thought were, not the Messiahs, but those that were going to help us get out of the trouble we were in in 1933. I thought, and I think all people who knew him, thought him to be a very able young man. We didn't know where he was going to go, needless to say.

M: Well, then when you met him face to face again in the 1940s at committee meetings, were you still impressed with him?

O: Oh, yes. He was still the same fellow--grown a little older and a little wiser. I continued to be impressed by him. As I say I dealt with him, except for this episode I mentioned. At least I had some dealings with him, but, as I said, we did not appear before his committee. He was still a fairly young congressman before he went to the Senate, so I remember meeting with him and talking with him. But there is no episode that I remember clearly enough to relate.

M: In your work with the Treasury during that period, did you have anything to do with the Temporary National Economic Committee?

O: Yes, I was a member on that committee during the period shortly after its beginning in 1938. I worked for the then General Counsel who was the

Treasury representative on the committee, and when he died about six months later, President Roosevelt designated me--or told Mr. Morgenthau to designate me--as the Treasury representative on the TNEC. I continued as a member of that committee as the Treasury representative until it completed its work in the spring of 1940 or '41. We held hearings through 1940, and I believe our final report was out fairly early in the spring of 1941.

M: Could you tell me what brought that about? Why did that committee come into existence?

O: Well, that committee--. Again, I'm speaking from things that no one can know in complete certainty. That committee, as you will recall, was created at the urging of the President for the purpose of making a rather complete examination of the concentration of economic power. It was more popularly known as the Monopoly Committee, and, of course, one of the conditions of monopoly is the concentration of control of economic power.

There was a group of people, and Lyndon may have been one of them--. I do not know this but I know that among those who urged the President to move in this economic field in some fashion were people like Bob Jackson, who was then in the Department of Justice; Bill Douglas, who was then chairman of the Securities and Exchange Commission; Leon Henderson, who was an economist of note and who had been active in administration circles up to that point; Isador Lubin who was the Director of Labor Statistics in the Labor Department. All of them I would call New Dealers. Jerry Frank, a whole coterie of people--some of them dead--most of them moved to other walks of life. My boss, Herman Oliphant who was the General Counsel for the Treasury Department was among them. I may have

left out some, but those at least were among the advisors and people who were reasonably close to the President who urged that an examination be made of this problem of economic power.

How they devised this technique of having a joint committee or who thought of that I haven't the slightest idea. It was an ingenious idea certainly. As you know, the committee, when it was created, was composed of three Senators, three Congressmen, and the representatives of six departments and agencies--the Treasury Department, the Commerce Department, the Labor Department, the Securities and Exchange Commission, the Federal Trade Commission, and the Department of Justice. That was the background for the creation of the committee.

The President sent a serious and very long message to Congress recommending the creation of the committee. The Congress thought well of it, it was created, and Senator O'Mahoney, of course, became the chairman of it, and I worked, not full-time because it was not a full-time job for anyone at all, but it was the major thing that I did during the period of two years although I had other work to do, too.

M: Did that committee accomplish anything other than turning in its report? Did it have any effect?

O: Well, that's a hard thing to say. I must, maybe because I am defensive of the thought that we must have done some justification for spending two years and several million dollars, I think that the committee did very constructive work. We completed a very comprehensive report. The material, economic material which was developed by the committee has been a best seller for libraries of universities and other people involved in economic areas. Some of the things which were recommended by the

committee have since come to pass, although not as a direct result of that committee's recommendations.

If you will remember the ground was in a sense shot right out from under us by war. We had just completed our work, and we were coming into a Defense area and orthodox concepts of competition and the sort of thing which would normally preoccupy a government in a peacetime period, were really going by the board very rapidly. Obviously, when we geared ourselves to war we didn't have--as a country and as a government--we didn't have time to pursue these important but secondary pursuits during a time of war.

So I thought that the main thing that the committee did was to expose to the light of day the major areas of our industrial machine and the way it operated. Then, too, the exposure of a number of things that were corrected, because there were a number of bad things which were exposed--. We weren't an investigative committee like the typical one that was really looking for a culprit but in the exposure of practices which could not be defended--the very exposure of them destroyed them if you follow me. The economic control in the glass container industry has resulted in the destruction of the patent monopoly that existed in that industry which was very important and very tight. In the examination we made of the steel industry, we disclosed some pricing practices in the steel industry in which price concessions which were supposed to be passed on to consumers because the can people were selling their products on a formula basis in which the formula was related to the price they paid for steel. It so developed, as we developed it for our committee, that the can people were getting major concessions

in price from their steel people but were casually not including those reductions in the formula which they passed the price reductions on to their consumers. All we had to do was expose that and the practice ceased. You can take a little comfort from that sort of thing.

I have a feeling that one of the most important things that any good committee can do in this type of society is to expose a situation. I mean just display it and if it is displayed intelligently to public view, and is the sort of practice that can't stand the light of day, the exposure is secure. You don't need to write a law because it can't stand the light of day. This is something of a diversion, but it certainly would be my justification of the major part of the effort that we undertook. I don't know that it needs that because I think the effort was well grounded and thoughtfully conceived by the President and the people who thought of it. The fact that casual results were in any event to be deferred by virtue of the war is no reason for the people who are actually involved in that enterprise to be embarrassed about it because I thought it was a fruitful effort.

M: Did you have anything to do with that period when you worked for the Treasury with the formation of tax policy?

O: Yes, I did, in the latter part of my period with the Treasury because I became General Counsel for the Treasury in 1944. That was the last year that Mr. Morgenthau was Secretary. Now, at that point in time I had nothing to do with tax policy. That was being handled by others and by people more closely connected with the Secretary's office.

A year after, in July of '45, Mr. Morgenthau resigned not long after Mr. Truman became President. He was succeeded by Judge Vinson who was

for a year the Secretary of the Treasury. I worked more in tax matters during the year that Vinson was there than before. But I would say that Mr. Vinson was responsible for tax policy during the year that he was Secretary for a variety of reasons, not the least of which was that he had been chairman of the Tax Subcommittee on the Ways and Means Committee before he became a judge--which was again before he left the bench to go back working for the President during the war. He had his own ideas and was a pretty well-informed man in the tax field.

After the Judge went on to the Supreme Court, John Snyder became Secretary of the Treasury. I continued to work for him for a year. During that year, which was a relatively quiet year in terms of the formulation of new tax policy, I was more closely connected with it because I was assigned the responsibility for the work of the Division of Tax Research, as we called it in the Treasury Department, and the Tax Legislative Council's office. I was in general charge of the supervision of Internal Revenue during that year.

But there was very little going on in those days. We were climbing down from the war period. I think the most significant things in the tax bill during Vinson's administration was when we recommended the repeal of the excess profits tax. And from '45 through '47, we were concerned about the winddown from the war economy and a lot of prophets of doom thought we were going to head into a depression because all the war contracts were going to be cancelled. They didn't realize that there were other countervailing things like the pent-up demand for civilian goods which had been pent-up five years.

But, in any event the only significant thing that I can recall during

the immediate post-war period in the tax field, was the repeal of the excess profits tax. If my memory serves me rightly, that was accomplished during Vinson's year--the spring of 1946 probably. So my connection was just that much with the tax situation.

M: Then in 1947 you went into private practice?

O: I left the Treasury and went into private practice here in Washington in 1947.

M: Did you leave the Treasury for any particular reason?

O: No. I left for no reason other than--. Well, I had a very good reason. I had run out of money, in common with many others at that time. During those years there was a freeze on salaries and the highest salary that was paid to anyone other than the cabinet officers was ten thousand dollars a year. In the meantime during the war years the cost of living went up. In common with other people I acquired a wife and family. In the last couple of years I worked for the government, I was spending more than I was making, and by late fall or around December of 1946 I had pretty nearly come to the end of the road. I told Secretary Snyder that I would have to leave. We got along very well together. As a matter of fact, he prevailed upon me to stay until the Congress adjourned during the next year. I stayed on until the Congress adjourned in July of '47 and I resigned effective the first of August of '47. There was no other reason. I continued to be a very good friend of John Snyder. I've always felt that the years at the Treasury were about the most pleasant I ever spent. It was the kind of job that if I could have afforded to, I would have done it for nothing. So I left for a very common reason--an economic reason--and that was a little difficult to explain in view of the fact

that I came back to the government only six months later.

M: And this was as Chairman of the Civil Aeronautics Board?

O: That's right. I went into private practice and, believe it or not, retrieved my fallen fortunes at least to the extent of paying my bills and had a little money in the bank. The following spring in March President Truman asked me to become Chairman of the Civil Aeronautics Board and I took that job.

M: Why did President Truman ask you?

O: I haven't any idea.

M: He didn't explain this to you?

O: Well, let me put it this way. I knew that he was having trouble filling the job. It was in the spring of 1948, and everyone assumed that Mr. Truman was not going to be reelected. Everybody was busy looking out the window when jobs were being offered, and the job that I was offered was only going to last--my appointment--until the end of that year, as I recall.

Why he asked me I don't know. I know there were several others who had been asked and could not, for one reason or another, take it. I know that Larry Kuter, who was a three-star general at the time was asked to take it, but they had a little difficulty because the Congress, I believe, wasn't willing to continue his military rank and, at the same time, let him have a civilian job. It's always been a problem. I believe that when McKee became administrator of FAA, they had a similar problem. In any event, Larry Kuter, I'm sure, was asked to take the job but did not. Who else was asked I don't know.

I hardly knew Mr. Truman although I had been in the White House

because I had worked for Morgenthau, and I had worked for Vinson, and I had worked for Snyder. I suspect that when they were looking around to see who might be available, John Snyder or some other people that knew me suggested it. But I didn't know that I was being considered until I had a call one day saying the President wanted to see me the next day, and I went over to his office. He said he would like to appoint me Chairman of the Civil Aeronautics Board. I asked for a little time to consider it, and I thought it over over the weekend, and then I said "Yes." But the wheels behind the wheels, I don't know. I know I was asked and I know I took it, and no one has ever even told me they were responsible for it, which is surprising enough.

M: So you remained with the CAB then until 1950.

O: Until the summer of 1950, two years and about three months I stayed there until July of 1950, at which time I resigned and went into private practice again, for the same reason basically, that I had left the Treasury because I had again run out of money. In fact, my resignation as Chairman of the Civil Aeronautics Board--. I talked to him six months before I left. I had agreed in my own mind that I could stay at least two years, and my only problem was how long I could afford to. About six months before I left I talked to the President and suggested I would like to leave and he asked me to stay at least until some important matters that were pending were disposed of--board matters. I agreed to stay, and finally in June of that year, of '50--I sent my resignation over on the thirteenth of June. They indicated they would like to hold it for awhile until they could figure out what to do to find someone to take my place. I was willing to do that for a limited period of time, but any event my resignation was

accepted in July of 1950. Then I returned to private practice.

M: And you remained in private practice until 1967?

O: Until 1967, that's right.

M: With several law firms.

O: Yes, but always here in Washington, and always with one partner. As soon as I left the government the second time--that is, after 1950--I joined up with a man named Alger Chapman and we became members of a firm that was actually known as Chapman, Walsh, and O'Connell in those days and I was their Washington partner. We opened the Washington office and I continued on with that firm. The firm changed from time to time although it continued to be Chapman and O'Connell or Chapman, Walsh and O'Connell. Some years later we merged with a New York firm, a large New York firm of Hawkins, Delafield, and Wood. We kept that connection for a couple of years, and in the meantime Al, more or less, retired from the practice of law because he became president and chairman of the Beech Nut Life Savers, and he became pretty much a businessman.

After a couple of years of the connection with Hawkins, Delafield, we decided that it didn't make too much sense because our business was different than theirs. While they were very fine people, there was little accommodation or little compatibility between the work we did and the work they did. So we in very friendly fashion agreed to demerge, if you will.

So then we went back to Chapman and O'Connell, and that was the firm that continued in name until I closed up the firm a year ago last spring. Chapman continued to be active in the Beech Nut Life Savers firm and was not active as a partner. But we kept his name because he and I had been

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associated together since 1950. He kept his name on the door and I became a member of their Board of Directors. We did a little work for them, but not very much--a little tax work because we majored in tax work rather than aviation work. So basically my partner from 1950 until I retired from the practice of law was Al Chapman, with these various modifications from time to time.

M: As a lawyer in this period, did you do any government work?

O: Almost entirely government work. Yes, when I joined the firm in 1950, it was basically a tax firm, federal tax firm, because Chapman and Walsh and our younger men were all experts in the federal tax field. I came with a background of Treasury work and had had some tax experience but did not think of myself, by any means, as an expert. But I had had a rather liberal experience in aviation work which I fell in love with as a type of thing to be interested in. So our firm, with me as a member--I don't think we did anything except federal work, but it was primarily tax work. That was the bread and butter type of business we had. We had a number of substantial corporate clients who had been with us and who continued with us over the years, and I developed a certain volume of aviation work. So basically we had two federal agencies with which we dealt almost exclusively.

M: And you would represent clients?

O: That's right. Airlines--

M: In cases of--

O: Well, in the aviation field, I represented a couple of airlines and other people interested in one phase or another of aeronautics. Probably the best client I had, and had all the time I was in private practice, was

the Japan Airlines, which is a major international airlines. But we had other smaller clients. I represented Delta Airlines in connection with one major case. They retained me for that one case. They had a legal department of their own and they hired me to handle a major aviation case and trial and processing of a major case before the Civil Aeronautics Board which lasted three years, I guess. That's the normal course for a complicated route case in the aviation field.

Our tax work was almost exclusively general representation of corporate clients. We represented Ingersoll-Rand and Johns-Mansville and Ed Noble in the Noble Estate, Beechnut-Life Savers, and various clients which had come to us for tax work. We had a very, very quiet tax practice and was very good practice.

M: Did you have any connection with Lyndon Johnson in this period?

O: Well, some connection with him while I was with the Civil Aeronautics Board. Of course, I had some with him in the Treasury too. Again, all the time I was in the Treasury our dealings were with other committees, but I got to know Lyndon Johnson as I would any important Congressman or Senator, as I got to know Sam Rayburn and other people who were important and interested in various things. On the Civil Aeronautics Board, I met him a few times, but he had very little direct interest in the work of the Civil Aeronautics Board except as it would involve airlines which--let us say--served or were active in Texas.

I remember once that Sam Rayburn called me down to his office while I was Chairman of the Civil Aeronautics Board because he and the rest of the Texas delegation were a little upset because we had instituted a proceedings which might have resulted in taking the license away from a

Texas airline called Trans-Texas. They didn't quite understand what we were up to. We had instituted a proceeding. Trans-Texas, like the other local airlines, were operating under a temporary certificate of short duration, three years. When their certificates expired, we had to have a hearing to determine whether they had proven sufficiently responsive to the public needs to justify their continuance. So when we got to Trans-Texas, they were doing a lot of good work in Texas, but Texas, the parts they served, some were rather sparsely settled. The good parts were served by Braniff and the other major airlines, including Continental. So when we instituted this proceeding, we instituted a proceeding which technically was what we called a show-cause order in we said to Trans-Texas, "You are required to show cause why your certification should not be terminated," which was another way of saying that if you can't show us something, you are apt to be terminated.

This was in contrast with another case which we had instituted with respect to another local airline just a few months before who had had a much better financial record in which we had put out a show-cause order in which we said, "You show us why we should not renew your certificate."

Now, obviously, when we said to Trans-Texas, "You show us why we shouldn't cancel it," it sounded as though we had made up our mind and that we were going to pull the rug out from under them. At least that was how everybody in Texas responded.

One of their reactions was that Sam asked me to come down and he had a meeting of the Texas delegation. Lyndon, who was then a Senator, came over from the Senate to join the group who had me on the pan down in

Sam's office. We had a very pleasant talk and I explained to them what we were going to do. We were going to have this proceeding. We had not made up our minds, and that we were perfectly free to go either way. We would go the way that the record in the case indicated we should go. They were not happy, but they were satisfied. The conclusion to the story is that we renewed Trans-Texas' certificate.

But we renewed the certificate of all the local service carriers, except one, during that time because they were all striving to make a go. They were all doing an important public service. The only thing was that some of them--most of them--were very expensive at that time. They didn't get much traffic. There were operating with not too good equipment. Local service operation were really started in 1945 or thereabouts, and by 1948 or '49 there temporary certificates were all coming to an end and we were reviewing the whole situation. The Subsidy Bill was going up, and we were trying to balance the Subsidy Bill versus the public benefits. We looked at each one of them and, except for a very small one down in Florida, we ended up by approving all of them. I think that time has proven that we were probably right. There was a period during which they were substantially subsidized and they still are, but they performed and are continuing to perform a very important public service. I believe they are over the hump now and have reached the stage which the major carriers didn't reach until after World War II, because the major trunk areas were subsidized until 1948 or thereabouts.

M: As Chairman of the CAB, were you interested at that time in aviation safety as well?

O: Yes, we were. We had the accident investigation division. In fact,

at that time, the Civil Aeronautics Board was responsible for writing the safety regulations which were enforced by CAA then, now FAA. We had an Accident Investigation Division whose job was to investigate major accidents and to learn what we could from them for the purpose of preventing accidents and helping us to write intelligently safety regulations. That function was in CAB. It was not a major function of CAB. It was a function of it.

The major function was the economic regulation of the airlines and that took more of our time. I would say that eighty percent of our time was spent on the economic regulation of the airline industry and twenty percent on the safety side. But we did have the function. And we paid as much attention to it as we could. In 1958 the regulatory function, in term of writing safety regulations, was transferred to FAA where it more properly belonged. CAB was left solely with the accident investigation function, which was transferred to The National Transportation Safety Board when this Board was created last year.

M: Did you have anything to do with the formation of the Department of Transportation?

O: No, not a thing. I was a newspaper reader to all intents and purposes. I was in private practice. I had nothing to do with it at all. I knew it was being considered. I thought it was a good idea. I was interested in the development which made it possible because a Transportation Department was talked of when I was with the Board twenty years ago. Every institution, every private institution, except the railroads and the government institutions which regulated them, were all opposed to a Department of Transportation at that time.

M: Why was that?

O: Well, part of the thought was that the marine people and the railroad people--not the railroad people--the marine people and, particularly, the aviation people felt that if a Department of Transportation was created at that time, that it would be railroad controlled, and that aviation--which was small and just growing very rapidly--would be stifled. They were afraid that they would be lost in a big agency where they were only one of two or three of its constituents, if you will. They felt they were better served to have their government regulation and the promotion of their activities from the government side handled by the Civil Aeronautics Board, a separate agency.

M: This is the way they felt when you were chairman?

O: That's right. That's the way I felt. Charlie Sawyer was Secretary of Commerce while I was with the Board and he was pushing a little bit for a Department of Transportation. I was opposed to it, for whatever that was worth. It never got to the point beyond general discussion in those days, but that was twenty--twenty years ago. At least that far back there has been talk of a Department of Transportation. That coalesced into a general belief that it was desirable I think, only in recent years. I think one of the significant things that made it quite possible was that the aviation industry decided, for whatever reasons--I think partly they thought they were big boys now and that they could hold their own in any organizational setup--so they little-by-little softened and when the Department of Transportation legislation was recommended, there was no opposition to it--basic opposition to it--either from the aviation industry or from the railroad industry or from

anybody except the maritime industry. And the maritime industry is still outside the Department of Transportation. They were quite effective in keeping themselves out. But I had nothing to do with it, as I say, other than to be an interested observer because I was a private practitioner.

M: Was your nomination to this safety board, then, a surprise to you?

O: Yes, it was a complete surprise to me. I knew they must be having a little trouble in completing their board selection because the Department was created in the fall. At least the legislation was through in the fall and here it came February-March and the Secretary had picked most of his immediate aides. The Department was going to be officially in business on the first of April and it got to be March and there had been still no designation of the National Transportation Safety Board. I knew they were obviously having trouble to make all the selections or they would have announced them.

I was interested only in the general sense. I've always been interested in government. I always like to see it run well. I had been asked to, and had, recommended a man to be a member of this board and he is a member of the board. I talked to John Macy on occasion as an over-middle aged kibitzer. If I knew someone that I thought was an outstanding fellow and would be a good man to be on Alan Boyd's team, I wouldn't hesitate to tell Alan Boyd--or John Macy either. But I made it a point to do it not only when people would write and ask me to give them a hand--because I didn't feel that endorsements of that sort were of value--but I did have an understanding with John Macy that whenever I felt very strongly that a man was a very good man I would tell him. I only had occasion to do that about twice because most of the people that I knew, and even though I like them and they would ask me to help

them, I never disclosed to them that I even knew John Macy because I did not want to be in the position of either diluting the validity of my observations to Macy on the one hand or telling these people that I wouldn't say a good word for them on the other. So I was very careful in what I did.

So I knew John Macy in that sense. I had been to see him two or three times. In March, I guess it was, he called me on the phone one Friday afternoon and said the President had asked him to call me and say that he would like me to be Chairman of the National Transportation Safety Board, and I said, "Okay, I'll take it." So it was a surprise, but it wasn't a surprise to the extent I was speechless.

Actually, in all seriousness, I had a hunch--and my wife will never understand this and I can't explain it either--but six weeks before this, I told my wife that I thought I was going to be asked to take this job. And my wife was horror stricken because she didn't want me to go back to work for the government. I soothed her down by saying, "Well, it's only a guess. It's only a hunch. Maybe it won't happen. So let's not cry about it." But I literally was not surprised when John Macy asked me although I had no reason to believe that he would. No one had ever spoken to me about it. I just knew that they hadn't announced the appointments. Maybe this is a species of egotism, but I had a hunch that they were going to ask me. But I don't know why.

M: Well, now, a few questions about this board itself. It would seem that one of the main goals of the whole Department of Transportation is safety in transportation. Therefore, this board would be of primary importance in attaining that goal. From what I've read, there has been

some resistance to extending power to this board, such as from the maritime industry.

O: Well, now, maritime industry, their resistance is to the Department of Transportation and to the economic regulation of the maritime business. Now, maritime business is subject to safety regulation right now by the Department of Transportation through the Coast Guard.

The Coast Guard investigates and regulates the maritime business. They regulate almost as pervasively as the FAA regulates the air business because you can't build an ocean-going vessel flying the United States flag without having its plans and specifications reviewed and approved by the Coast Guard. They have minimum standards of constructions, minimum standards of safety. They have a marine navigation bureau which licenses seamen and which determines the qualifications for pilots and captains. They investigate accidents.

We sort of--are not the counterpart of the Coast Guard--but we concern ourselves with marine safety by sort of shepherding the operations of the Coast Guard. Whenever the Coast Guard investigates a major accident, they submit their report of the accident to us and we review it and we decide what we think should be said, if anything, in addition to what they've done. So that in the safety field the whole transportation is under the Department of Transportation. It's only in the economic field that the maritime field is left out.

As a board, we have a general responsibility to concern ourselves with safety in all modes of transportation--public and private. Basically, it concentrates on public transportation. Number one, of course, would be air transportation, not because the safety problem is greater

there--well, actually, in many respects it is the lesser of the problem-- but when we came into being the only operating staff we had was the aviation--the Bureau of Safety from the CAB. In that area we and our predecessor, the CAB, had the affirmative responsibility to investigate all aviation accidents. In the other modes--that is, surface transportation, railroads, trucks, buses, automobiles, pipelines, marine--we have a general authority to concern ourselves with safety. We can investigate an accident, if we will. We can see what kind of job the modal agencies do, let's say the railroad administration or the highway administration or the Coast Guard--what kind of a job they do in regulating. We can tell them, we can kibitz on them, we can give them advice on how better to do their job, we can investigate an accident in those fields once in a while. But in those areas of primary responsibility for investigating accidents is in the modal agencies.

M: Will that investigative power, do you think, ever be transferred to this board?

O: Not if I have anything to say about it.

M: You would prefer to have--

O: Much, much.

M: --have it as it is.

O: I much prefer, and I think that this type of function, as I understand it, would tend to lose its value if we get ourselves immersed in the detail job of investigating the myriad of accidents that take place on the roads, railroads, in maritime field and everything. These other agencies have some capacity. In the Coast Guard they have a good capacity. In the highway field, we have almost no capacity, I mean, as a government

as a whole. In the railroad field, there is a limited capacity. My belief is that the government will best be served if the capacities to investigate and to regulate are kept in those agencies and that they do the work and that we continue to be a very small agency--kibitzing, riding herd on, and seeing, from one point removed from both the operation of the industry and the operation of the regulatory agencies, looking at them with a cynical but not necessarily a jaundiced eye, to see whether they are doing the sort of thing that we think in our informed judgment--and we hope it can be informed, and it can be informed by keeping constantly in touch with the operation--whether in our informed judgment there are ways in which safety can be enhanced--can be enhanced by better regulation, can be enhanced by better industry practices, can be enhanced by better public awareness of some hazards which we just don't think about enough. That's our job.

M: But you do have investigative power over aviation?

O: Yes. And we can investigate accidents in the other fields, too.

M: If you so wish.

O: If we so wish. Well, in the aviation field we have statutory responsibility for investigating accidents. We have delegated the investigation of the major number of accidents in the aviation field to the FAA. That has been going on for twenty years, and for very good reason.

There are six thousand, let us say, general aviation accidents in the United States which involve maybe a thousand or so fatalities--all kinds of accidents. FAA has a big field organization. They've got a very large staff. Over the years we have developed--we with them have developed an arrangement under which they investigate under guidelines

provided by this board the form of the investigation, the form of a report and so forth. They investigate about eighty-five percent of all of the accidents in the aviation field. They make their reports to us. We evaluate them and we put them into the mill and we come up with the statistics and with whatever meaningful results we think we can get out of them in terms of recommendations. That eighty-five percent is in number.

The other fifteen percent, really, are made up of all airline accidents which involve fatalities, which are really accidents, where there is substantial damage to a commercial airline or deaths or injuries to people. That is not too many. That is probably, seventy a year. We investigate all private accidents, all general aviation accidents, all private airplane accidents, which involve fatalities--where anybody is killed. It is an arbitrary division, but that gives us only those which cause death. The others, the non-fatal accidents, are under investigation done by the FAA.

In the last year we delegated a little more work to the FAA because what we constantly try to do is to keep for ourselves the more productive thing which would in our view justify the concentrated attention by us as distinguished from FAA. So in that regard, for instance, within the past year we gave to them the investigation of all, what is known as, aerial application cases even those there are fatalities. Those are crop-dusting type of commercial-agricultural type. We have come to the conclusion that we investigate a hundred of those a year and we find they are all the same thing. The guy flies too close to the ground and he runs into a telephone pole. No great moral--. It's not good to see

people killed, but in terms of the division of labor, we decided that that area could better be handled by the field people in the FAA.

At the same time we decided that we would take back from the FAA the investigation of all mid-air collisions whether there were fatalities or not. Now, the reason for that is quite practical, too. We are getting to have more mid-air collisions. We are getting apt to have even more. Concomitant with this is the proposition that more and more the FAA may itself be involved in the accidents through its control operations. The reason that this board is separated from FAA is that they don't want FAA in the business of investigating itself. So we just took back this area of collisions because we felt that that was an area in which we could apply ourselves to intelligently and it would take away from FAA an area which is more and more apt to have FAA involved through the operation of the traffic control system.

M: Is it correct, then, that your board is more or less as a policy-making board, an advisory board?

O: I don't know what the word policy means, but I would say that we are basically advisory in any event because we have literally no power over anything other than investigating and making recommendations.

M: You can not enforce?

O: No, no indeed. We make recommendations to the FAA or to the Coast Guard or to the Railroad Administration. The response may be anything from, "Well, that's interesting, maybe we'll do it," to a response saying, "You don't know what you are talking about."

M: Then advisory is the word--

O: I would say so. Our power is solely to recommend, and we have no power

to enforce our recommendations. Every once in a while somebody suggests that we ought to have that power, and I don't believe we should. My own feeling is that if we do the sort of thing we are doing and that we are set up to do and if we make intelligent recommendations based on informed judgments from one step removed from the scene of the crime, if you will, then if our recommendations are well conceived, well thought out, and well presented, they will be well received. If they are well received, that's the purpose if we want results. I have yet to find a case in which our recommendation have not been, let us say, well received. Now, most of our experience is with the FAA. Statistically, I believe I am informed that over the years eighty-five percent of the CAB recommendations have been accepted and implemented by the FAA. Now, that's a reasonably good batting average.

M: Is it significant that such a board was created at this point in time?

O: Well, I think it was created in point of time because it was--. Well, in the first place it was logical, assuming a Department of Transportation, to have an organization within the framework of the department to take and have an overlordship and an overlook at surface as well as air transportation because the problems have some degree of commonality and the technique for looking at them is the same in some respects. You can learn from all of them. But, in addition, the thing that I think motivated the Congress to pay special attention to safety was the rising tide of accidents and fatalities on the highways.

M: It was becoming an obvious problem?

O: Oh, my goodness, fifty thousand people--fifty-one thousand people killed in 1966 and about an many in 1967. I'm perfectly sure that but for that

rising concern over the rising tide of accidents this board probably would not have been created. There wasn't any reason to create this board solely to take the CAB function and put it in another board because CAB was doing eminently well with the function itself. So that the purpose of the board, the prime purpose, was to create a vehicle to concern itself with the other forms of transportation and particularly with the new federal overlordship or regulatory responsibility in fields which it had entered only in minor fashion before.

Take Dr. Haddon's operation. [It] is a brand new innovation by the federal government to have the federal government imposing minimum standards of safety in the design and construction of passenger-carrying vehicles. My goodness, that's a technique which is only three years old, and ten years ago you would have thought a man was crazy to think of the federal government doing that sort of thing.

So we're caught in a changing world and one of the ways in which the Congress felt, and I believe the Department recommended that there be a safety board at the time the legislation was proposed. I think that the board was given the kind of position it was given because we are, as you know, by statute made independent of the Department in the performance of our responsibilities and of our functions. That was in part as I understand it because, particularly in the field of aviation, Senator Monroney for one, and he more than anyone else, was quite concerned lest investigative function in the aviation field end up over with the FAA, and he did not want that. He felt that the separateness of the CAB and the independence of the CAB in the investigation of accidents in the aviation field was a very essential thing. The investigative

function I believe under the original draft of legislation was intended to go to the FAA, and Monroney and other informed people on the Hill wouldn't stand for that. They insisted that the Board not only keep the investigative function in the aviation field which was their prime concern, but they're responsible for the language making it independent because they were afraid that even if we were separate from FAA but under the direction of the Secretary that we would lose that degree of independence which the CAB enjoyed and which the congressmen like Monroney felt was essential to the whole business.

M: This would seem to be a wise amendment, then.

O: I would think so. As a matter of fact, the only complaints I have heard about it since are some people that felt the only lack of wisdom was in putting us in the Department at all. In other words, some people think that we are not independent enough yet. I've had friends who were pretty well informed in the aviation field--Paul Cherington up at Harvard who did me the kindness of saying that while he was against the board having anything to do with the Department of Transportation, he felt he could rest easy for awhile as long as I was Chairman of the Board. But, in principle, he felt that to be in the Department at all was a mistake. I don't believe that. I believe that--

M: Is it important to be in the Department for your advisory--

O: Well, organizationally it is. For housekeeping purposes, I think so. I see no lack, no losing of independence being in the Department the way we are. We get the vaule of administrative services. We get the benefit of having a budget operation and bookkeeping and personnel and things that an organization of two hundred and thirty people could not afford to

have of its own without it being all out of proportion in terms of cost. That's all it does. So long as we do not lose the thing which the statute says we have then there is nothing wrong with being in the Department. Well, we are all in the same government. I just do not myself believe that there is any real danger of losing the independence that Monroney so feels we should have, and which I think we probably should, by being in the Department the way we are. They are advantages, and I see no disadvantages.

Now, maybe down the road somewhere, sometime, a Secretary of Transportation may swing his weight, and, he may like the FAA Administrator more than he does us, and he may be confronted with a weak board, and it is entirely possible that in two or three years this board might be put in a corner completely. But I can't anticipate it. I've no reason to be concerned yet.

M: One last question about this. Has President Lyndon Johnson supported you in the board activity? Has he shown a concern for safety in transportation?

O: Well, as far as I'm concerned, I don't know. I've never talked with him since I've become Chairman of the Board, and our routine work hasn't involved any direct connection with him nor any direct recommendations to him. I'm sure that he is as interested in safety as everybody else is, but he's got plenty of other things to do, and I just don't--. All I know is that he appointed us as members of the board and he said, "Good luck, boys," and we've been doing what we could ever since then. I haven't seen the President or talked with him since I became Chairman of the Board.

M: Well, that's all the questions I have. Thank you for the interview.

O: Well, I hope I didn't talk too much. Fortunately, we can always edit this.

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By Joseph J. O'Connell, Jr.

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