

Interview II

Sidney A. Saperstein

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INTERVIEW II

DATE: June 28, 1986

INTERVIEWEE: SIDNEY A. SAPERSTEIN

INTERVIEWER: Janet Kerr-Tener

PLACE: Mr. Saperstein's residence, Silver Spring, Maryland

Tape 1 of 2, Side 1

S: The Juvenile Delinquency [Prevention and Control Act] and Partnership for Health were sort of in the same period.

K: Yes.

Now, this Partnership for Health Amendment from 1967 was the major administration bill in the first session of the Ninetieth Congress, but there was a predecessor bill back in 1966 called Partnership for Health, too, but I think that the technical name was the Comprehensive Health Planning and Public Health Services Act.

S: Probably. I don't remember that particularly, but it was not as comprehensive as the Partnership for Health.

K: Okay. I do recall that this 1966 law made some attempt to consolidate formula grants and project grants that were administered under the Public Health Services Act.

S: Public Health Service Act.

K: Oh, Public Health Service Act, okay. And what was the reason for these consolidations?

S: Well, one of the problems was that--there were several. Coordination was one, and the second thing was that you keep getting these categorical grants and they keep proliferating and they're narrow and it

Saperstein -- II -- 2

makes it difficult to coordinate all the things. Well, what happened, of course, in the case of the Public Health Service was that a lot of the Congressmen and Senators would have an interest in a particular field or disease. Particularly if Lister Hill, who was chairman of the Senate [Labor and Public Welfare] Committee, or [John] Fogarty in the House, who would be Appropriations Committee [subcommittee chairman] for the Service, if they were interested in anything, the Administration of course would be sympathetic. And as a matter of fact several of the Institutes [of Health] were established because of their particular interest.

K: Do you recall which ones, maybe?

S: No, I don't, as a matter of fact. I think Fogarty was very much interested in international health. One of them was interested in the eye diseases. Cancer came along--well, cancer was one of the original ones. We thought we had coordinated that more with the rest of the institutes, but when Benno Schmidt--I can't remember whose administration it was--was very active--I think it was in the Kennedy Administration, I'm not sure. No, it was in Nixon's day, I'm sorry; it was Nixon's time that he pushed very hard and they expanded cancer tremendously. I remember I objected very strenuously because it wasn't necessary to have all these special programs. They wanted to set cancer completely apart, practically, from the Public Health Service. If they could have, I think they would have taken it out of--

K: Yes.

Saperstein -- II -- 3

S: The trouble with it, of course, was that the merits of the situation were frequently lost. The disease that had the most powerful political person behind it would get more money than the diseases which maybe merited more money. This was one of the problems with all the various institutes and with the diseases and that kind of thing.

But the Partnership for Health Amendments [bill] was really a much more important and significant piece of legislation than the Comprehensive [Health] Planning [and Public Health Services Act].

K: Can I ask you just a couple of questions about the 1966 bill before we talk about the amendments?

S: If I can remember. How much do I remember?

K: I wanted to just clarify this idea of consolidating the formula and project grants. Was there a problem at the delivery level when you had agencies in the local communities who had money, so much for venereal disease, so much for treating other types of disease, and when they had more cases of one than the other, they couldn't transfer venereal disease funds to other areas?

S: Well, the formula grants, as I remember, were grants to the states where they had to have a plan and a certain amount was given. Now, they wanted the project grants because in case a problem arose which was not related to the factors on which they based the formula grants, like the financial need or the extent of the problem statewide and that kind of thing, they wanted to have the flexibility that the project grants enabled them to have. You could give it directly to a

Saperstein -- II -- 4

community and you wouldn't have to go through the state necessarily and that kind of thing.

K: Okay. Also, this may be a fairly common thing but I noticed when I looked in the Congressional Quarterly Almanac on this legislation that the 1966 [Comprehensive] Health Planning and Public Health Service Act was only authorized for two years instead of the six years requested by the Administration. Why would that have been? Is this fairly common, to cut back on the authorization?

S: I really don't know. It may have been that they figured they were going to have a more comprehensive proposal the next Congress or something of that sort. I can't remember, unfortunately.

K: Now, one other thing that I thought was sort of interesting that you may be able to shed a little light on was that one provision of this 1966 Act was an amendment offered by Senator Edward Kennedy of Massachusetts which stipulated that services which were provided by the Act were not to interfere with, quote, "existing patterns of private practice of medicine and dentistry," end quote. What was that all about? Do you have any idea why that would have been added to the act?

S: The only thing I can think of, he probably did it in order to assuage some of the objections of the American Medical Association and some of the others who were always concerned about the Public Health Service or the Department [of HEW] coming in and taking over medical care, providing medical care in competition with the doctors in private practice. They were always interested in protecting that.

Saperstein -- II -- 5

K: So this would have been--?

S: And I suspect also, although I can't remember, that they had in mind these Partnership for Health Amendments that were in preparation and this was just a sort of preliminary thing. But I can't be sure, I'd have to--

K: Okay. This did strike me and I wondered whether the AMA was behind it.

S: Well, for example, in many of the pieces of health legislation, we always had a provision at the beginning that we would not be engaging in [or interfering with] private practice of medicine and that kind of thing.

K: Now, can you give me some of the background on the 1967 amendment and what you--

S: Well, it stemmed from a feeling that we needed something comprehensive to both enlarge the functions of the Public Health Service and bring a lot of this stuff together. When the bill first started out, it had a lot of provisions relating to mental retardation. The initial draft I did--what must have happened was, as I think I've mentioned earlier, before the beginning of each Congress and even each session of the Congress, there would be a legislative program prepared which had general specifications as to what we proposed to do when the Congress came back. That would be prepared in the fall. In some years our office had more responsibility for that than others, but it always went through us, and it went up through the Secretary and then over to the OMB and then to the White House, so they had some idea about what

Saperstein -- II -- 6

we were planning. This must have been included in that legislative program, and then the Public Health Service or someone else, but probably the Public Health Service people, prepared specifications in slightly more detail. And I did an initial draft of the bill on that basis, and I circulated it to the Assistant Secretary for Health--

K: Who was--?

S: That was Phil Lee---[to] the Assistant Secretary for Legislation, that was probably [Ralph] Huitt; the General Counsel; the Comptroller, who was Jim Kelly; the Public Health Service, and the Assistant Secretary for Planning and Evaluation, [who] was probably Bill Gorham at that time, with a memorandum where I raised questions. This was usually my way of doing it. I would prepare a draft and then I'd raise questions to tell them what I did and what the problems were.

That original draft in December of 1966 had public health grants for public health services, research centers for mental retardation, university-affiliated clinical facilities for mental retardation, community mental retardation facilities, immunization for certain diseases like tuberculosis or some of the others, health care for migratory agricultural workers, and aid for the cost of compensation for professional and technical staff of mental retardation facilities. Then my memo raised questions about this and about the overlap with Hill-Burton on some things. Then there was a separate draft bill on improving the performance of clinical laboratories engaged in inter-state commerce through licensing and aid to state regulatory agencies.

Saperstein -- II -- 7

At an early stage I combined that with the rest of the bill, and the mental retardation facilities provisions were dropped.

K: Why was that?

S: Well, I suspect that it was the mental retardation people who didn't like being lumped in with the rest.

K: Wasn't there already on the books an act--?

S: Oh, yes.

K: Yes.

S: Yes, there was. You remember when the Kennedy family was very much interested in mental retardation because of the daughter. And originally when we submitted the bills for mental retardation and mental health, community mental health centers and mental retardation, we had to split the bills. I drafted them originally as a combined bill, and the White House, I think, insisted that we split them. It was political pressure. We split them, went up to the Hill, and Jack Forsythe, working for Senator Hill who was Committee Chairman, called me up and said, "It doesn't make any sense; put the two of them together." (Laughter) Then I rejoined them and sent them up that way. This frequently happened, you see. They would call me and, with the approval of Wilbur Cohen or whoever it was in charge, I would work. I mean, even in the Republican Administration I was allowed to do that kind of thing, because they figured it would advance our policy in the end anyhow.

But I suspect that's why they [mental retardation provisions] were dropped out, and we did some other bills separately for mental

Saperstein -- II -- 8

retardation. After that initial draft, we had a couple of meetings with Wilbur Cohen to resolve the issues involved. I was there and I'm sure Jim Kelly was there and--

K: Is this the same James Kelly who has been in the Department of HEW or with the Office of Education following that?

S: No, no, no. This is the James Kelly who was Comptroller. He had a legal education, too, and very frequently he and I would clash on legal matters. But he was a very able guy, a very strong person. He was our Comptroller and then Assistant Secretary-Comptroller.

K: Was he a political appointment?

S: No, not originally, although the job of course when he became Assistant Secretary had political [aspects]. But he and Rufus Miles, who was Assistant Secretary for Administration, were career people.

K: And Miles had come up through the Budget Bureau, though. He had a tour there [?].

S: Yes, he had come up and then came to us. And his brother, I think, stayed at the Budget Bureau.

K: I didn't realize he had a brother.

S: Jim left and went to Georgetown [University] as their Comptroller or finance officer, and then he went to the State University of New York as chancellor. Anyhow, I am sure he was there and we resolved some of the issues.

Then in January right after that--well, we met early in January with Wilbur. I have a note here that on the eighteenth--I think you may have a copy of the memo--the draft bill was revised by me and sent

Saperstein -- II -- 9

to Wilf [Wilfred] Rommel at the OMB with a memo from Ted Ellenbogen. Now, Ted was the Assistant General Counsel; I was the deputy, you know, though he didn't really supervise me very much, if at all. I always wrote the memoranda from him but you will see there that I prepared them and so on, and frequently we'd say if they [OMB] have any problems, call me, on that. And I sent it to them, I am sure with Wilbur's okay, on an advance copy basis, "We're still reviewing it, but here it is," so they could get started on reviewing it. And they were advised to call me if they had any problems or questions.

K: And you did this pretty often, didn't you, that you would send up an advance copy so they could get going before you got--?

S: It depended. It was not unusual for us to do that kind of thing. No, it would vary. As I think I may have mentioned, when Wilbur Cohen came in and when [Abraham] Ribicoff pushed the welfare amendments. I mentioned how the welfare amendments were started in the Ribicoff and Kennedy Administration, where Wilbur gave me about nine or ten things and just the general [instruction], "Start drafting this and don't talk to anybody," except I could talk to Charlie Hawkins, but nobody else in the Department or anywhere. It was that kind of thing. But frequently we would all be working together, the OMB and everybody else, and so there was no point in being too secretive; you wanted to get as much advance clearance as possible. And I think in one of these I will mention a case where there wasn't enough coordination and at the last minute we had to make changes in the bill. At that point the bill included grants for continuation or broadening of grants for

Saperstein -- II -- 10

the Comprehensive Health Planning and Health Services, both formula and project grants, so that we could do that. Then [it included] grants for schools of public health and grants for research and demonstrations on delivery of health services, and that may be where there was concern about engaging in private practice of medicine. You see, that's the kind of thing we were working [on]. It also had some aid to the states in health emergencies, planning cooperation between the Public Health Service and community facilities and licensing of clinical laboratories--

K: I wanted to ask you to focus on that [?].

S: --and authorization to accept volunteer services as a provision of health care by the United States, and also arrangements between medical schools and other facilities and agencies for sharing medical care facilities and resources. This was at a time when we were trying to get some more efficient administration. For example, I think that still goes on today: [e.g.,] laundry, each hospital [would] have its own laundry facilities. What I found, if they [the hospitals] got together they could economize, and central purchasing could serve them in that kind of thing. Then there was an extension of authority for research through contracts, and that went up on an advance copy basis. Then on the twenty-fourth [of January] there was a memorandum from Ted Ellenbogen, drafted by me again, to Rommel with a revised draft and a summary with copies to Wilbur Cohen and so on. There had been some further discussion; we revised it. And I have a note here that I

Saperstein -- II -- 11

am sure that I didn't send any of these drafts over there without Wilbur's okay. I would not do that on my initiative.

Then after that, there was a meeting with Irv Lewis of the Budget Bureau, Phil Lee, Bill Stewart, who was then Surgeon General, and several others and me on the draft bill. And on February 9, which was later, I sent a revised draft from me to others, from me to Wilbur, and from Ted Ellenbogen--that I had prepared--to Rommel to take account of the changes that we had made in this meeting, which apparently had taken place in Wilbur Cohen's office, and to take account of the Budget Bureau's objections and suggestions.

K: What kind of objections did the Budget Bureau have on a piece of legislation like that?

S: Well, as a matter of fact, there was a memorandum later on after the bill was introduced where the Budget Bureau wrote a letter of clearance after we thought we had everything cleared, saying there were certain conditions [to the clearance]. And I circulated that and explained that I wasn't aware of certain of the conditions and I wondered what they wanted to do about it, and they all commented on it and I prepared a letter which Wilbur sent to [Charles] Schultze, who was then the director of the OMB, commenting on these reservations. But they [OMB] would be concerned about the relationship of what we were doing to what other departments and agencies were doing, how it related to the overall budget, how it related to the President's program as they understood it, that kind of thing. And, as you will see even more in the juvenile delinquency bill, there would be

Saperstein -- II -- 12

arguments back and forth on how these things should be done and the OMB would try to settle it.

Now, a lot of departments, not a lot, but some departments were very reticent about arguing with the OMB. If the OMB said something, they would take it. And I don't know whether I mentioned this before, but the secretary that I hired when I became Assistant General Counsel came from the legislation section of the Defense Department. And she said to me several times she could not believe her ears--the way I talked to them. I mean, I wasn't scared. Sometimes I'd say, "Look, if you don't agree with me you can take it up with the higher-ups, but I'm not going to agree to that." I'd say, "You're all wet. You don't know what you're talking about," or something like that. Now, we had a good relationship, but I wasn't timid at all about it, I wasn't cowed by what they said.

K: But they would actually get into the substance of the legislation, not just the administrative and budgetary--?

S: Well, with the Office of Management and Budget--they changed its name later; it was the Budget Bureau in the early days--but it had other functions. It was part of the Executive Office of the President and they had a legislative reference section; Rommel was sort of the head of that one as well as the appropriations section. And then they would have substantive sections in addition to that [legislative reference section]. Now, Irv Lewis, as I recall, was in one of their substantive sections concerned with the policy in particular areas.

K: And Bill Cannon was the head of the education and--

Saperstein -- II -- 13

S: Oh, yes, that's right. I'd forgotten about Bill Cannon. He was a--

K: So he would have been a substance person.

S: I think he would be a substance person. Now, Wilf Rommel and Naomi Sweeney and some of the others, several others, were legislative reference [section], almost like us. They got into policy and so on, but they were reflecting the policy of the substantive bureau people and [their superiors].

K: But they wouldn't have direct dealing with the Hill, or would they? Would they only go through the agencies--?

S: They would very rarely have any direct--well, the White House, you see, would handle the direct dealing with the Hill. Sometimes the people in the OMB would go up there, but it would be the White House people who were dealing with the [Hill].

K: Larry O'Brien and--

S: Yes. There was a fellow over there [at OMB] I remember, Mike March, who was a thorn in our side frequently at the OMB. But Naomi Sweeney, for example, and Wilf Rommel and we got along very well together. Naomi's still there.

But, as I said, we all felt that--if I felt that--what we were doing was right, I wouldn't concede. I think I told you--if I haven't, let me tell you about one experience I had when I was Assistant General Counsel and Elliot Richardson was our Secretary. It was on an education bill and Gaylen Powers, who was on my staff, had been responsible for the drafting. The bill was over at the Office of Management and Budget and apparently the night before it was to be

Saperstein -- II -- 14

introduced, there was a meeting at the White House with Elliot Richardson by himself from the Department and some people from the OMB. And I got into the office about a half-hour early and there was a call from the OMB telling me that certain changes were to be made in that bill. I said, "Okay, give me the changes." Then I went and got the bill. By that time Gaylen Powers had come in and we went over it, and I said to Gaylen, "This particular change makes no sense whatsoever." It was a change which would have allowed the states I think to delay implementing something that was important from an antidiscrimination point of view. I said, "That makes no sense to me at all." So I called them back and they said, "Your Secretary agreed. As a matter of fact, your Secretary said he wanted that." So I said, "Well, I'll find out more about that."

So I then went into the General Counsel's Office first, and it turned out he was in with the Assistant Secretary for Legislation, who was Steve Kurzman at that time. So at that point I had enough status around so I could go into these meetings. So I went in there and I explained to both of them what had happened. Will Hastings, who was the General Counsel, said, "Well, you know the Secretary well enough. He's over at the White House at a press briefing preceding the introduction of the bill this morning." He said, "Go talk to Jonathan Moore," who was the Secretary's executive assistant. So I went and talked to Jonathan Moore and explained the situation and said, "It makes no sense." He agreed. So I said to Steve, "You call the White

Saperstein -- II -- 15

House--they'll listen to you--and tell them that the Secretary should call me as soon as he gets out of the press briefing."

So he [Richardson] called me. This was still shortly before noon. I explained the situation to him. I explained that this would have the opposite effect of what [the pressure groups wanted]. He said, "Well, try to get in touch with the people who had the responsibility"--I won't mention the names but it was somebody outside--"and see. And if you can't get in touch with them, then make the change you want to make." So I went back to Jonathan Moore and Steve Kurzman, we all tried to get in touch with this person. Finally by two o'clock we weren't able to, and I was told, "Go ahead and change it." So we changed it and sent it up to the Hill then.

But that's the kind of thing when we have a meeting with the Budget Bureau and some other people and if you're not conversant with all the details, there's a problem. Rarely did that happen. I mean, Richardson or Wilbur Cohen or others would occasionally take me to the White House then. Wilbur would sometimes take me when we met with Ted Sorensen and some of the other people at the White House, because they realized that they didn't know all the background. They couldn't. That was one example, anyhow. But the Budget Bureau would get into things like that. You just had to--I mean, my secretary was looking at me on the phone, [I was] saying, "I'm not going to put that in there that way. I'm sure it's wrong."

Let's see. Where were we?

K: Well, you had a February draft at that time.

Saperstein -- II -- 16

S: Oh, yes, we went and sent it to Rommel to take account of all these changes, and at that point the bill included the authorization for care for federal civilian employees in remote areas on a reimbursable basis. They [Federal agencies] had these people up in Alaska and some other places where there wouldn't be other facilities, where the private practice of medicine was not adequate, so we could provide that on a reimbursable basis.

The bill also included an amendment requested by the Commissioner of Education permitting assistance to nurse training programs accredited by the Commissioner of Education. Ordinarily, they [the programs] would be accredited by the regularly established bodies for nurse training. But the Commissioner said there were some things, like the college ones, where they had collegiate nurse training, where he accredited them. So this bill included that. Then about a couple of weeks later, Wilbur as Under Secretary transmitted the draft bill to Congress, and Huitt, who was Assistant Secretary for Legislation, sent copies to [Harley] Staggers and Hill with a request that they introduce it. But the official one was sent by Wilbur. But that I think was when [John] Gardner was Secretary, and he would let Wilbur run most of the--

K: Yes, I noticed that in the Congressional Record that Mr. Cohen was the one who would testify initially in behalf of the legislation and not Secretary Gardner.

S: This was uniform.

Saperstein -- II -- 17

This was on February 28 of 1967. On March 17 Rommel sent a letter to Wilbur Cohen with a carbon copy to Ted Ellenbogen confirming informal clearance of the bill that was given by Herb Jasper, who was working for Rommel, to me, but with certain understandings, most of which I was unaware of. I then immediately circulated this [letter] to all the interested parties and asked for their comments. And after I received their comments, I prepared a response which Wilbur sent to Schultze, in which we commented saying this was unnecessary, or that was, or they're all wet, or something like that. I think you've got a copy of the letter in there, so you can see.

K: Why was it sent up to Schultze? Because at this point the bill had already been introduced and there was a little more at stake than--

S: Because Rommel had sent us a letter telling us about these understandings on which the clearance had been based. Therefore Wilbur was saying he wanted to go to the top and tell them, you know, "We're not going to do these," or "It doesn't make sense," or "We'll do these administratively, don't worry about it," that kind of thing.

Then about a couple of months later, the bill was before Congress and of course we got comments from various people. And the clinical laboratory part of it was one of the controversial issues.

K: What was the background on that? Why was there such an interest in licensing these labs?

S: Well, they--

K: These were labs that were engaged in interstate commerce. [Inaudible].

Saperstein -- II -- 18

S: Yes, that's the ones, but there were also labs that were not. But our jurisdiction presumably was because of the interstate commerce, although at one point I wrote a memorandum to Wilbur about the possibility of including all labs who did any work for Medicare patients, whether or not [in] interstate commerce, and pointing out the pros and cons of that. But laboratories were important, because some of them were set up without adequate controls and when they made a mistake-- you must be aware even today, with all the advances that have been made in computerization and everything else, they make mistakes. And you had to have adequate controls on cleanliness and so on, so there was a great deal of interest in it. The states, of course, would argue that they were doing the job already and, of course, the American Medical Association probably did the same thing. But the Public Health Service people felt they were not.

K: So these were labs that the Public Health Service often had to deal with or--?

S: Not that they had to deal with so much, but that people had to deal with that were ill or who were in programs. The Public Health Service would have its own laboratories.

K: I didn't know that.

S: I mean, when they had the clinical center, they would test their own stuff and where they had hospitals, they could test their own stuff. But these were laboratories that were serving others and if they were involved in interstate commerce, we felt we had a legitimate reason for doing it. Now, one of the problems that arose was that this

Saperstein -- II -- 19

[proposal] included some state and local laboratories that were run by the states or localities. Ted Ellenbogen objected strenuously to our having anything to do with them. There's a memorandum in there--in which I point out in my memorandum on that--in the footnote, that he has objections and that he'd attached his memorandum. My feeling was that if the states were doing an adequate job, they didn't have to worry about being licensed by us. Of course, if they weren't doing an adequate job, the fact that they were state or local laboratories shouldn't make any difference.

K: Who won that argument?

S: I can't remember, as a matter of fact. I think we kept in the regulation of state or local labs although we provided at one point that when we felt the state licensing procedure was adequate, we could withdraw and allow the states to do it. I don't remember if that finally became law or not, but that was one of the possibilities.

K: I think there was some exception in the legislation, so that labs which were already licensed by certain groups would be exempt from federal licensing.

S: I'm hazy on that now, as to what happened, because it went back and forth. I can even remember when the legislation was in its final stages. I was working on it at home, I think, trying to--I'd gotten a call from some of the staff of one of the committees saying, "You know, we have a problem here. Can you fix it up?" And I remember calling the fellow in the Public Health Service part of the General Counsel's Office--he was Sid Edelman--at home. Or maybe he was in the

Saperstein -- II -- 20

hospital somewhere. "Can't we work this thing [out]?" You know, trying to resolve some of the issues. It was a very controversial thing, because people are always interested in protecting their turf and things like that.

After that memorandum and discussion on the clinical laboratories that are operated by the states and localities, I wrote this memorandum about the pros and cons of applying it to laboratories that processed Medicare specimens and things of that sort. But I don't think that was ever included that I remember. In the meantime, Wilbur Cohen testified before the House and Senate committees. Now, frequently I would accompany people up there. I think I did this even more in the Republican Administration than in the Democratic Administration. I would go up with Wilbur to executive sessions at Ways and Means and things like that. On testimony I rarely went up with him, but I would always have reviewed the testimony to make sure it was consistent with the legislation. But with the Republicans I remember going up several times, sitting at the [witness] table and actually testifying.

K: Was this maybe because in the case of Wilbur you had someone who was pretty well versed and knew things that--?

S: Oh, yes, Wilbur knew what to do and frequently it was not strategically wise to have me along or others who could give all the details. He'd say, "Well, I'll have to go back and check," or something like that. It would give him time to work out something, things like that.

But I think the Republicans, coming in as they did after so many years of Roosevelt and so on, felt a little less confident of these

Saperstein -- II -- 21

things. I remember on air pollution control and water pollution control, when I still was drafting it and we still had the responsibility, I would go up with Jack Veneman, who was Under Secretary, and I remember having quite a strong discussion with Senator [Edmund] Muskie on one of the problems that we had. And I also remember going up with Mrs. [Oveta Culp] Hobby on the House side on an appropriation bill. It was on the question of what we call Public Laws 815 and 874, the federally affected areas legislation. [I remember] going up and [having] quite a discussion with the Congressman from New Mexico who was going out after Mrs. Hobby and [Samuel] Brownell, who was then Commissioner of Education. And at one point Mrs. Hobby said, "Well, maybe our lawyer can help you," and from then on I took over and shielded her.

But Wilbur, you're right, didn't feel the need for all of that, first, because he was conversant with so much of it, [had] been with the Department, with the Federal Security Agency and everything so long, and also because it sometimes was smart not to have anybody.

Then Mike Parker, who was the Deputy Assistant Secretary for Legislation, and I wrote a memorandum to his boss, Huitt, commenting on some of the amendments that were designed to meet problems raised by committee members with respect to the clinical laboratories provisions. And I have a note here that at some point or other, I met with persons in the House Legislative Counsel's Office on a provision, which I think was at one point included in this bill, or maybe in a different one, that Georgetown University wanted: loans for the

Saperstein -- II -- 22

construction of their experimental or demonstration facilities under the Hill-Burton program. Even though this was the Partnership for Health [bill], I think they wanted to include that. And I was called up to the House Legislative Counsel's Office to work with the people on it. I'm sure someone from the Public Health Service went to it with me. I could check that, but I remember doing that. This was the kind of thing I did to provide technical assistance to the committee staffs, to the Legislative Counsel's Office, always keeping Wilbur informed, or Huitt informed, as to what was going on and making sure they didn't object to my doing that.

K: So you many times were the inside negotiator on some of these things, so that the attorneys on the respective staffs who were hammering out the details on legislation would work out compromises and then check back to see if this was--

S: Well, let me say that whether they were attorneys or--Jack Forsythe happened to be an attorney. There was Bob Barclay also on that staff who was not an attorney, that I would work with. And on the House side they may or may not have been [attorneys]. But when it came to policy, if I knew what the Department's policy was on a major issue, I would of course argue for that. More likely, it would be that subsidiary policy questions would be involved and I would try to make the proposal as harmless as possible from our point of view so that it wouldn't be an impossible thing [to administer].

Saperstein -- II -- 23

Tape 1 of 2, Side 2

S: Frequently, when it came to preparing the bill finally that the committee wanted, they had decided what they wanted, the staff would call me up there to do the drafting, either by myself or with the Legislative Counsel's Office. For some reason or other, the Senate Committee and its staff did not have the same relationship with the Legislative Counsel's Office in the Senate that people in the House did. On the House side, I almost always was working with a person from the Legislative Counsel's Office. On the Senate side, I would frequently do it by myself in the health field. On social security, I would work through the Legislative Counsel's Office on the Senate side. But on health, Bob Barclay would call me up there, or Jack Forsythe, and say, "This is what we want." As a result I had such a good relationship with them that sometimes when we'd send up a bill in a big rush, which frequently happened; with Johnson particularly it was in a rush. No time, no time. On the juvenile delinquency bill you'll see we had a serious problem as a result of--anyhow, I would write them a note and say, "In the rush we goofed on this technical thing. Will you please make the change before the bill is introduced or at an appropriate time?" And they would do it for me.

Then, as I said, they would call me up to do some drafting for the committee. Then the bill would be passed and we, of course, always got a request for comment on the enrolled bill. I don't know whether you understand the procedure, but some days before the official enrolled bill goes to the White House, there's a facsimile

Saperstein -- II -- 24

prepared by the Government Printing Office and the Enrolling Clerk, and those copies are sent on an advance-copy basis to the OMB. The OMB would then circulate them to the departments involved and ask for comments, and frequently we'd get a corrected page because of that. I can remember once, I don't remember what it was, but the Senate Legislative Counsel's Office asked me to go with them to the Enrolling Clerk after the bill had been passed by the Senate. A number of amendments had been made, and this happened frequently in the Senate. I guess this wasn't the final bill but it was when the bill was being enrolled in the Senate. And because they made a number of amendments without regard to the previous ones that had been made, some were in conflict. And several of them, the Enrolling Clerk, with our advice, took the responsibility and we changed them. But there were one or two we had to get a unanimous consent resolution to [change].

Anyhow, they [OMB] would get the advance copies and they would be circulated and we'd comment on them, and that's what happened here. I then prepared a proposed response comparing it with our bill and pointing out that this would still enable us to accomplish what we wanted to and therefore we would recommend approval. Of course, I will have gotten comments from the various parts of the Department and have maybe talked to Wilbur or Huitt informally before I'd actually prepared it. Then it would go up the line for formal clearance. The President [then] signed the bill and then I was invited to come to the signing ceremony.

K: I wanted to ask you about one of the amendments I believe in July of

Saperstein -- II -- 25

1967 in this bill to establish--it's an administration amendment--a rat extermination program. Do you remember that?

S: Oh, yes.

K: And there was a big brouhaha over it.

S: The housing administration was very much interested in that.

K: Yes, the Department of [Housing and Urban Development].

S: I remember that.

K: I think the original Administration provision was rejected in the House.

S: I think we argued that we had enough authority to do it.

K: Yes, there were existing programs already.

S: But they were interested--either at Housing or the people on the Hill were interested in getting it mentioned specifically. I think we avoided getting anything in the legislation authorizing a separate appropriation.

K: You're right, you're right.

S: But I do think that we argued they could go to the Appropriations Committee and get some money earmarked. I do remember that--I don't--

K: Maybe I can throw out a few things and see if anything else comes to mind. The House refused to consider this amendment and there were a lot of comments by House members on the record or which got some press about "This is a civil rats bill," and "We're throwing money down a rat hole," and "We don't need to do this." The press gave it a very bad review and then civil rights groups were very upset. Then in September the House accepted another amendment which was to accomplish

Saperstein -- II -- 26

the same thing except that it wasn't going to funnel funds through HUD. It was going to just use the Public Health Service because there were programs already under way. I think it was supposed to be a forty million dollar fund.

S: Yes, I think I remember doing something on that.

K: And the House approved that by one teller vote. But you're right, none of the money was specifically earmarked in the legislation, but if you read the record it was clear that this [was] what the money was for. I believe it was one of the members of the House, somebody named [William] Springer, said, "There are already ten rat control programs through various agencies on the books. What do we need yet another one for?" And that's my question. Why this sudden revival of interest in rat control?

S: Well, there may have been some stories in the papers and things like that--

K: Babies being bitten in the crib.

S: Babies being bitten and stuff like that. But there was always this tug between the people who were interested in health and the people who were interested in housing. I do remember the brouhaha and I do remember doing some work on it, but all the details are gone.

K: Reading the--

S: The Congressional Record may have more on that. I didn't have it.

K: Yes, I just looked at the Congressional Quarterly Almanac and I couldn't quite get the feel for why this became such an issue, but evidently it did.

Saperstein -- II -- 27

One last question. Again in this, as in 1966, Congress refused to give the Administration a six-year authorization for the 1966 legislation. I think Johnson asked for four years with a 1967 Partnership for Health amendment and only got a new authorization for 1969 and 1970 instead of for another--and there were also additional funds authorized for the year of 1968. Why would Congress not give the Administration the full authorization it requested?

S: Well, this became more and more the practice of Congress, so that you had to come back for [re-]authorization. There was this constant fight between the Appropriations Committee and the substantive committees. More and more the Appropriation Committees were getting control of the substance by putting things in; you know, they would earmark funds or they'd do something else like that, becoming in effect a substantive committee. And the substantive committees were concerned and they wanted to keep control, and one way was to make us come back. Of course, when you had a Democratic President and a Congress that was made up of Republicans and conservative Democrats, they would also want to not trust the Administration. That was a reason why even though Congress was Democratically controlled in theory for many years we could not get departmental status [for HEW] until the Republicans came in, because they didn't trust the Democrats. Of course, the conservative Democrats and the Republicans would get together. And a number of times we just couldn't get the agency converted into a department, which the Republicans did.

Saperstein -- II -- 28

K: Would you say the conservative Democrats and Republicans were--your programs like the Public Health Service, didn't a lot of their constituents benefit from this kind of thing?

S: The Public Health Service did better than a lot of other programs.

K: I know they feared aid to education.

S: And sometimes welfare and education. But in this case I think it might have been a situation in which the private-practice field was concerned and wanted to keep a closer rein on it.

K: The original Public Health Service Act was in 1944 or something like that. Why did that come to be? Wasn't it because there weren't doctors and facilities available?

S: You knew I was involved in that?

K: No, I didn't know that you were, but I would have figured that you probably knew something about it.

S: No, no. I was there. In 1943 the Public Health Service was before the substantive committee trying to get a big authorization for doing things. At that point there was no basic Public Health Service Act; we had a lot of separate [pieces of] legislation. There was the original marine hospital legislation. The Public Health Service hospitals were called marine hospitals; they were set up to care for the merchant marine people. They would render medical care. And then there were the other things, communicable diseases and things like that, but a lot of separate pieces of legislation. The Public Health Service wanted to improve its status, boost the commissioned officers and things like that. Representative [Alfred] Bulwinkle was chairman

Saperstein -- II -- 29

of the subcommittee at that point, and we were up there before him and he said, "I'll give you temporary authorization, but I want you to come back next year with a comprehensive bill so we can consolidate all these things." So Alan Willcox and Marjorie Champion, who became Mrs. Willcox, and I, with Stan Drexler helping out occasionally--he was in the substantive part of the General Counsel's Office--started, and we went back to the original statutes-at-large and went through all of them and got all the pieces of legislation. Then we started to write the bill. Tom Parran was the Surgeon General then and Dr. [L. R.] Thompson was his deputy, and they met with us.

As a matter of fact, that's when I got my first flu shot. I was subject to colds and of course then flu shots were unheard of. And Dr. Parran said, "You know, we're experimenting with flu shots out here. Why don't you come in and we'll give you one?" (Laughter) And I got a flu shot.

But that's how that started. Then subsequently, when we had the bill ready, we went through the Budget Bureau and so on, we went up on the Hill and Mr. Willcox testified on the bill. I was with him and it went through.

K: In the Public Health Service programs has there been, or was there originally, a requirement that people being treated be indigent or anything like that, or was there an assumption that they would be? Was the Public Health Service responsible for all the oral polio vaccine program in the public schools? Was that the type of thing that--?

Saperstein -- II -- 30

S: That was part of the communicable disease program where it was grants to the states for that purpose.

K: Okay. So the intent behind these programs wasn't that this would reach indigents?

S: No, it was any communicable disease. I mean, the theory was you wanted to immunize the--now, some of the formula grants, you see, were based on financial ability of the states, so that there was something like that. But, no, it wasn't confined to that [the indigent].

Now do you want to go to the Juvenile Delinquency Prevention and Control Act?

K: Yes. This is in 1968, but this bill was originally submitted to Congress in 1967, I think.

S: Yes. As a matter of fact, it started in 1966, December of 1966.

K: Well, the House evidently passed a heavily amended version of it in 1967 and sent it to the Senate, but the Senate did not complete action on it in that year. I think I should say, just for the record, that the act consisted of a three-year, hundred and fifty million dollar program of block grants to the states to plan and operate projects to prevent juvenile delinquency and to rehabilitate young offenders, and it included funds for construction of facilities, training of personnel, research to improve techniques and practices for preventing juvenile delinquency.

S: The construction [portion] was sort of ancillary; it wasn't really a construction program.

Saperstein -- II -- 31

K: That's what I thought.

Was this an inspiration from the White House?

S: Well, let me put it this way. There had been a juvenile delinquency program already. We had a program.

K: HEW did?

S: HEW had a program, was doing that, and this was supposed to be a new way, a new approach and everything to it. It was supposed to make a tremendous difference. I'm not sure where it originated, whether it originated with us or with the White House. I think the Department of Justice--

K: Was there any kind of a task force on it?

S: I don't remember. The Department of Justice was interested because, you know, they had the crime bill legislation at that point, so they were interested in this field, too. The earliest thing that I had in the file--I'm sure there were some things which preceded it--was a memorandum from Lisle Carter, who was then Assistant Secretary for Individual and Family Services, to [Joseph] Califano at the White House. It was a very broad outline of the proposal, very broad, as to what they would think [might be included].

Incidentally, at that time Bill Gorham was Assistant Secretary for Planning and Evaluation and Ralph Huitt was Assistant Secretary for Legislation. Now, the next thing I have is a memorandum from me to Lisle Carter including a draft bill to carry out the very general specifications they had at that point but raising a number of questions, which was my practice of drafting and then saying either,

Saperstein -- II -- 32

"Well, I made this assumption, did it this way. Am I right?" or "I didn't know what to do here. What should I do?" That kind of thing. And that bill included the title of "The Young Americans Act." This was Lisle Carter's idea. We were going to call it the Young Americans Act.

K: He was black, is that right?

S: Yes. A very able man, incidentally. I think he became--was it the President of Howard University at one point?

It also repealed the full funding provision of the existing law.

K: [Inaudible].

S: Now, do you know what full funding [was]?

K: First, was the existing law passed under the Johnson Administration?

S: I'm sure it was, yes.

K: Now you can tell me about the full funding.

S: Full funding was a practice--this was very interesting, and Wilbur was inclined to be [inaudible]. You'd make a grant for a project. Now, suppose that project really couldn't be completed in one year; it was going to be a continuing program where you knew it would take several years. If you made a grant for the full amount that it would take for the two or three years, that would absorb a large part of your appropriation. At the same time, of course, the recipient would be assured of getting the money, wouldn't have to come back. Well, the Congress I think--some of the people in Congress--liked that, because then you couldn't come back the next year. What would happen if you didn't do that? You'd make them a grant for as much as they could use in the

Saperstein -- II -- 33

first year. Then you would come the next year and a large part of your appropriation would be sort of committed because you would have to continue this program that was already started, and the Congressmen would be interested in making new grants to their constituents---it didn't affect us like that--and they wouldn't have enough money [to do so]. They'd have to arrange it [?]. So there was always this fighting back and forth.

One of the things Wilbur would do frequently--and this was I guess [true] in other administrations, too--they would come in the first year with a very small appropriation [authorization] and then "such sums as may be appropriate or may be necessary without specific amounts [for subsequent years]." Of course what would happen, it [the appropriation] would balloon because you would continue the program [from the] first year. You either had to appropriate a very large sum of money to continue the programs that were started one, two, three or four years before and [to fund] some new projects so that you could keep your constituents and others happy or get the policy you wanted accomplished or you couldn't have any new [projects]. So there was always that problem. Well, the existing legislation had the full funding and the first thing I did was repeal that. Then there was a provision in there for turning money over to the Department of Justice for carrying out their function of rehabilitation.

K: Under the original Act, those responsibilities were divided, the rehabilitation was separate from--?

Saperstein -- II -- 34

S: No, I don't think they were involved in the original Act, but this was part of the policy here, that Justice was--we were supposed to turn the money over [to them]. And I objected to that. I mean, I felt Justice ought to go get its own money [inaudible]. Then Carter attempted to respond [to my memorandum] and there was a long response--there was no extra copy of his memorandum--explaining why "The Young Americans Act" was appropriate. (Laughter)

K: And you regarded it as another euphemism.

S: That's right. And you'll see my memorandum. I had an extra copy in here.

Then we met with Wilbur to iron out some of the problems, and in January of 1967 I sent Rommel an advance copy of the draft bill. We met with Wilbur again on the entire HEW legislative program, not just this. And at that point, at that meeting, I objected rather strenuously to the requirement that the grants for treatment and rehabilitation of juvenile delinquents to public agencies be made jointly with the Attorney General. At that point we had to make it jointly. It had been changed from turning money over to them to being a joint--

K: But this was a compromise then?

S: It was sort of a compromise at that point.

K: Okay. Had Justice had input into that?

S: I would think so, I would think so. Remember I mentioned I think once before that Virginia Burns, who was Lisle Carter's special assistant, and I met with Ramsey Clark on that point, late in the legislation, trying to iron it out with him. Then after that meeting I sent Rommel

Saperstein -- II -- 35

a revised draft, still under review. The name was then changed as I wanted it to be.

K: Now, how did you win that?

S: Well, I just persisted, and to me it was ridiculous. I mean, "The 'Young Americans Act.'" This was a grandiose title for something that was in a very narrow field. I just felt if they really wanted to accomplish anything, fine, but just changing the name from Juvenile Delinquency Prevention and Control to that wasn't going to do it.

K: Can I interrupt for a minute and ask--you mentioned at the outset that this act was supposed to accomplish some new and wonderful things. First, what was the underlying or philosophical rationale for this kind of program and what did they want to accomplish with it? I guess my reaction in looking at notes on the legislation is that it seems naively optimistic to assume that little federal projects are going to prevent juvenile delinquency. What was the point, can you give me a feel for the inspiration behind it and what did they propose to do?

S: Well, the inspiration was that they felt that maybe the thing to do was first try to prevent it by education, by all sorts of programs--

K: Yes, what kind of intervention did they have in mind?

S: Well, they would have, I guess, the social workers, people like that trying to devise programs that would occupy the youths and do things like that.

K: "Keep them off the streets" type of stuff?

S: Then they'd rehabilitate them [the youths] once they were caught in the early stages trying to--well, and that's where we had the conflict

Saperstein --- II -- 36

with Justice as to who was going to be responsible with trying to rehabilitate [the youths], and [who would be] training people who could work with juvenile delinquents, things of that sort.

K: And social workers would be sort of positioned in the community on a full-time basis?

S: I guess so. I really didn't get into the details that much.

K: Well, who were the movers and the shakers behind this in the Administration?

S: Well, as far as I know, Lisle Carter was it, and I guess, of course, at the White House [it was] Califano and his staff. Then at the Justice Department people were very much interested because of the relationship to crime.

K: Do you have any sense that this legislation was sort of an optimistic response to the conditions that were exposed during the sixties, the Watts riot in 1965, the ghetto riots in Detroit in 1967 and sporadic riots in other cities in 1966 and 1967? There wasn't any connection between what happened--?

S: No, not so far as I know.

At that point, when I sent the revised draft to Rommel in February, the thing was still under review, the name was changed as I indicated, and the training and rehabilitation grants were made after consultation with the Attorney General, which is what I wanted if anything. That was on an advance-copy basis to the OMB. Now, in between that and the time we actually sent the bill up, the President

Saperstein -- II -- 37

sent the message up. And Wilbur or Lisle Carter, whoever it was, did not involve us in that.

K: This was the President's Message on Children and Youth in February?

S: Something like that, yes. And when I saw the message, I blew my top. I called the Budget Bureau, I said, "What goes on here? That's not the way we drafted the bill. It's different." Well, we had to change the bill at the last minute to conform to the message. I mean, this was very last minute; the bill was supposed to go up with the message and that kind of thing. It was one of the times when there was a lack of coordination. Now, when we redrafted it, we had to put in that the training and rehabilitation grants would be made with the concurrence of the Attorney General; that was in the message. I said "training," it's treatment and rehabilitation.

K: It was in the message that the Attorney General had to approve. . . ?

S: Well, it had to be with his concurrence that we made any treatment and rehabilitation [grants]. Now, at that point there were no training grants in the bill, no grants.

K: Training for--?

S: People who would be involved in working with [juvenile delinquents], social workers or whoever they were.

K: Okay.

S: Probably because of the objections of the Secretary of Labor. Probably, just guessing.

K: Why would he have objections to something like that?

Saperstein -- II -- 33

S: Well, there was always this jurisdictional problem between the Office of Education and us, on the one hand, and the Labor Department on the other. The Labor Department felt that as far as training for work was concerned, they were the people involved. If it were education, it was us, but sometimes you couldn't distinguish between--it was hard to draw a line. So that was probably--

K: So if they were going to have their druthers, they would have written it so that any training aspect of the program would be under their jurisdiction [inaudible]?

S: Yes. But it was not in the bill as we sent it to Congress. It was sent again by Wilbur as Under Secretary. Then I wrote a memo to Jack Reed and probably to Jack Forsythe--Jack Reed on the House side--requesting drafting and technical changes at the last minute on the bill as introduced. As I say, this was really one of those times when we had no time. I had to make those changes under the gun.

Then I prepared a month or so later a revised draft bill as requested by Representative [Roman] Pucinski, who was on the House Committee, and I sent it to Virginia Burns, who was Carter's assistant. After that, a clean bill was introduced and reported out, largely as I had drafted it, but Pucinski had made changes in it. Again, as a technical service I did this for them. At that point their bill as reported out by the Committee did not require concurrence of the Attorney General.

K: This was on the House side?

Saperstein -- II -- 39

S: This was on the House side. And training grants were to be made through state agencies--that was added by them--without any intervention of the Labor Department. Not directly, we weren't going to make direct grants to the agencies doing things, but to the state agencies. In the Senate, when it came time, we recommended our original bill--I'm sure Wilbur testified--over the House bill. We wanted our original bill. Then apparently it languished there for quite a while and the next thing I notice is I sent the Senate subcommittee counsel revisions of a galley of a subcommittee print. The subcommittee staff would send down to the printing office a galley to get back a print that they could work on with the subcommittee, and I was asked to comment on it and I suggested revisions. And I sent copies of my revisions and discussions to Virginia Burns, who was Carter's assistant, and to Sam Halperin, who was apparently Huitt's assistant at that point, deputy in that area. But I know that before this happened I met with the subcommittee counsel and Robert Patricelli--I don't know whether that name means anything to you.

K: I think you might have mentioned him earlier.

S: Robert Patricelli became Deputy Assistant Secretary in the Department when Nixon took over. At this point he was a young man, very bright lawyer. I think I've mentioned him to you in connection with [the book] Nixon's Good Deed, the welfare reform bill. But he was then Javits' assistant, and Javits of course would be the Republican who cooperated more with the Democrats than the others, so he and the subcommittee counsel met and I was there. They were trying to agree

Saperstein --- II --- 40

on changes and then I was supposed to draft things of that kind, and I would point out problems to Patricelli with what he wanted to do. Then the draft bill, the subcommittee print, was prepared and I commented on it. Now, the Senate then passed the bill requiring the Attorney General's concurrence in the treatment and rehabilitation and the Labor Department's concurrence on training grants. The President signed the bill finally, but at that point the Attorney General's concurrence was eliminated but the Labor Department's concurrence was still left in. And I was invited [to the signing ceremony] and I got another pen.

K: I have a question. As the bill was submitted by the Administration, all the money to go to rehabilitation and prevention programs was to be distributed by the Secretary of HEW to local agencies and nonprofit organizations. The bill that came out of the House said that they were to make these block grants to the states, and then the bill almost came out of the Senate that way, was just defeated by about four votes. The Senate version, I believe, said that, yes, we're going to have block grants for rehabilitative and prevention services but we'll have sort of a modified approach--

S: Treatment.

K: What?

S: Rehabilitation and treatment. And the prevention grants would be different.

K: Okay, maybe I'm confused. But in any event, as the Act was passed, the bulk of the money for prevention programs was to be administered from

Saperstein -- II -- 41

block grants to the states, and then what was left over for other programs would be left to the discretion of the HEW Secretary.

S: There was always that problem of control.

K: Yes. And I'm very curious because you might remember that in this same year, in 1967, I think it began in May of 1967 and extended over a summer into the early fall, the House tried to convert Titles--I believe it was III and V of the Elementary and Secondary Education Act to block grant programs. They were originally programs in which the Secretary could administer funds to the local agencies to provide certain educational services. And Edith Green and a group of her allies converted those to block grants and effectively removed the Commissioner of Education's authority there. So this was a parallel development. Was there any larger tide moving these things along, or were these isolated incidents?

S: You have to distinguish education from the other programs. There was a great suspicion by some of them in the field of education. They didn't want federal control.

Tape 2 of 2, Side 1

S: There was a great deal of concern about the Office of Education getting into control of education. Originally, way back, the Office of Education was primarily a research outfit where they had these technicians that did a lot of research and then they would publish the results of their research. Then beginning in about 1950 and progressing on, they got more responsibility with the federally-affected-areas legislation and then the expansion and got more into the field

Saperstein -- II -- 42

of grants and that kind of thing. There was a concern that they [Office of Education] would have some control, and particularly if they made direct grants to schools. So there was a big push by some people to make them [Office of Education] do it through the states, to increase the status of the state agencies and keep the Office of Education from dealing directly with the local agencies.

Now, in the field of welfare there was some of that, but not nearly the concern that there was in the education field. In this case I don't remember really what the big fuss was, but some people wanted the rehabilitation grants to be made through the public [state] agencies rather than directly.

K: Did this mean that less money would actually go to the programs themselves, that if you added another layer of administration, that money that might go for prevention was actually going to support the state agencies who were administering these programs?

S: Well, they tried to distinguish and maybe give a separate grant for administration, but what would happen is that the state agency would then determine which projects would be supported instead of the federal agency determining that.

K: And in reality sometimes the state agencies and the federal agencies would have different priorities.

S: Oh, sure. Oh, sure.

K: What would the priorities of the federal agencies have been?

S: Well, I don't know. They may have felt that particular local areas needed it more or that a particular agency of a certain area was more

Saperstein -- II -- 43

likely to produce results, useful results, than someplace else. And the state may have had other priorities because they had other political influences on them and things of that sort. But one of the things was that in some areas, not so much in this but for example in the Public Health Service grants--we were talking about that, you remember--the states were required to submit state plans so that we could see how they were going to use the money.

K: Yes. You said something at the beginning that sometimes Wilbur would request very low appropriations or funding for the first year of a program, and I noticed that for this act only five million dollars, I believe it was--I don't have my other notes. Five million or fifteen million, something like that, was appropriated for the first year that it would go into effect. Now, why would that be? I guess what I'm asking, would there have been overlap between the other legislation, the juvenile delinquency legislation, and maybe this fifteen million was just an additional--?

S: No, I think again it was just starting out small and then increasing.

K: Maybe for some planning and organization. Okay.

I know that in the case of the conversion of Titles III and V of the Elementary and Secondary Education Act to block grants, the White House was extremely unhappy about it. The Office of Education was unhappy, the Secretary of HEW was unhappy. I know that in the case of the Juvenile Delinquency Prevention and Control Act that the President was not particularly happy with the sort of modified block grants approach that came out in the final bill, but was there any sense that

Saperstein -- II -- 44

the conversion to block grants would have prevented him from signing it, or wasn't it that serious a problem?

S: I think I included in there a copy of my letter that Wilbur signed to the OMB commenting on the enrolled bill and pointing out that while some of these things were not what we wanted and not in our original bill, they would accomplish essentially what the President had originally proposed and therefore we urged [approval]. Now, I don't remember exactly how concerned we were about the President's not signing it. I don't think we felt that he would veto it but--

K: Is this lost along with [inaudible], do you think? I haven't heard any discussion about it.

S: I don't really know. Justice may have taken over a larger part of it. I'm sure we don't have that assistant--I don't think they have that assistant secretary position anymore. I really don't know; I really don't know whether there is or not.

K: I don't suppose--

S: I mean I could find out but--

K: Well, I guess I'm leading up to the question of whether in the course of your duties in the General Counsel's Office, whether you would from time to time have gotten some sense of how things were going, what legislation was implemented. Did you ever get, you know, feedback or evaluations of the programs which would have influenced what you would do in the course of preparing legislation to reauthorize them four or five years down the road or--?

Saperstein -- II -- 45

- S: Well, if they were going to reauthorize it or expand it or amend it like in this case, we would get some notion of how the program was going, but otherwise we wouldn't.
- K: Then you don't recall getting any specific impressions?
- S: No, I think this sort of faded, because although after 1967--and I retired in 1973--I don't recall that we did very much on this after that. I don't think anybody on my staff did.
- K: If you read commentaries on the legislation during the Johnson era, you get the distinct impression that towards the end of his administration that there was a sense of disillusionment with the Great Society program emerging and that this in part led to the election of Richard Nixon. That these wonderful ideas that were quickly translated into legislation and implemented with varying degrees of success really were sort of half-baked reactions to ideas I guess coming out of academic circles. That no one really stopped to ask whether throwing a few million dollars at this problem or that problem would in the long run make any significant difference. Is that a valid critique?
- S: Well, there may have been some of that, but my feeling is that there wasn't this disillusionment; it was the Vietnam War that was really creating the problem of trying to have guns and butter. There may have been already some of the feeling arising that you can't cure problems by just throwing money at the problem but--
- K: Would that have been the reason for John Gardner's leaving the Administration, when he came in seeming so enthusiastic and idealistic? I think Wilbur Cohen commented to me once that by the time

Saperstein -- II -- 46

Gardner left he really didn't have any interest in education anymore and was pretty much leaving those decisions up to subordinates and that his interest and enthusiasm for a lot of these things had waned.

S: The only thing I can remember him being particularly interested in was the public broadcasting. Otherwise I wasn't aware, but Wilbur was handling all his stuff. And I guess he may have been disillusioned more with the Vietnam War than anything else.

K: Yes. When Nixon came into office, was there some concern within HEW about what would happen to these programs, or were people fairly confident that they had gained a momentum of their own through constituent groups and congressmen that were interested in them and that they would survive?

S: Well, I guess there was some concern. But the atmosphere was far different from when Eisenhower came in, as far as I was concerned, anyway. But when Nixon came in, let's see, who was our first [Secretary]? It was [Robert] Finch, it was Finch. Finch came in and his General Counsel--I can't remember--oh, yes, it was Bob Mardian. By that time my position was fairly safe; I had enough seniority so I didn't care anymore. But I guess there was a feeling that generally that legislation would be less liberal than it had been before. Yet, as I mentioned, the Welfare Reform Act was really quite a forward-looking thing. Medicare was well established already and, as a matter of fact, we drafted legislation for Nixon that would have expanded medical care with some federal encouragement, that is, setting up programs under which employers would be required to have insurance for

Saperstein -- II -- 47

their people. So there wasn't the same feeling that there was when Eisenhower came in for some reason or another. Strange.

K: Well, I don't have any more questions.

S: All right.

(Interruption)

[There was an incident when Jack Forsythe was] the chief of staff, Labor and Public Welfare at that time in the Senate, and Pat Wanolsky was a lobbyist for the handicapped group. She had a deaf son. Pat then at that point, I think in 1964 or something like that, came to work for us in the Department. And I think she was probably in the Vocational Rehabilitation Administration. And they wanted to establish this institute up in I think it was Syracuse--had that all worked out. So she worked with me and I drafted this bill and then worked with the people on the Hill the same way, sort of, and it became law. But it was a very interesting thing. (Laughter) Just a small piece of legislation but it was for a particular institute.

K: But this came about after she was Mrs. Forsythe, or before she was Mrs. Forsythe?

S: I think it was before she was Mrs. Forsythe. I think she was still Pat Wanolsky at that point. But she was working very closely with Jack.

K: I guess that a lot of the institutes that are federally funded come out of little stories such as that, a connection to this or that, or a special relationship that someone has to a problem or to people involved in a problem.

Saperstein -- II -- 43

S: All the health institutes, you know, they proliferated. There was a National Cancer Institute and then the rest of the National Institutes of Health at one point. And then Fogarty and Hill and others became interested in particular diseases and we would argue with them all the time: "You don't need to establish it by legislation. We can do it administratively. We can set up an institute." No, they wanted it in the legislation. So you've got [institutes for] eye diseases and metabolic diseases and arthritis, all these established in legislation. And, as a matter of fact, one of the earliest ones was the National Institute of Mental Health. That was in 1946, I think. I drafted that. But we were very careful and fought hard to avoid establishing the institute in the legislation. What we did was authorize the construction of the building, which became eventually the clinical center. It was expanded to include everything with that. So we did not want to establish the National Institute of Mental Health by statute. Later, of course, it was.

K: That's interesting.

End of Tape 2 of 2 and Interview II

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