

INTERVIEW I

DATE: November 9, 1983
INTERVIEWEE: WILLIAM ROBERT SMITH
INTERVIEWER: Michael L. Gillette
PLACE: Mr. Smith's residence, San Antonio, Texas

Tape 1 of 1

G: Well, Mr. Smith, let's begin by my asking you to just outline your background very briefly. You've mentioned that you did serve in the legislature in 1927. Let me ask you where you went to school.

S: Well, I graduated from Austin College at Sherman in 1921 and then I went to law school at the University of Texas and graduated in 1924. I started practicing law in El Paso, which was my home town, at that time. In 1926 Robert Ewing Thomason, who was later in Congress from that district, kind of revved me up to run for the legislature. There was a man, an incumbent, that he and his friends didn't want to be re-elected. They talked me into running, which I didn't much want to do, but I ran and I was elected. I served one term and never did run again.

While I was in the legislature it was Dan Moody's first term as governor. I had supported him, and I had supported his program while I was in the legislature. I knew him through the years. I tried law-suits against him later on when I was United States district attorney, and with him a time or two, and he and I got to be very close friends.

[I was appointed U.S. district attorney] after serving four years as state district attorney out in the Midland-Odessa district,

Smith -- I -- 2

where I had moved before my term was out in the legislature. In 1929 Dan Moody [had] appointed me district attorney to fill a vacancy. I was elected later, served there four years, and then Franklin Roosevelt appointed me United States district attorney in 1933. Morris Sheppard and Tom Connally were really responsible for my appointment. The Senate confirmed me, and in August of 1933 I moved to San Antonio to take office as U.S. attorney, was sworn in early in September.

The first thing I did after I was sworn in was to get all the pending files. There was one of the former assistant U.S. attorneys who agreed to stay with me, stay in office until I could get my own assistants appointed. They all had to be Democrats, of course. He and I went through the pending files, and among other files we found was United States v. George Parr. I read the file, I read the report of the investigators and determined that it should be prosecuted, so I kept it. Some other cases that I didn't think should be prosecuted because the evidence was no good or the witnesses had died, one thing and another, I set them aside and later dismissed them. George Parr, the name didn't mean a thing to me, although I had served in the legislature with his father, Archer Parr, but the connection didn't ring a bell with me at the time I examined this criminal violation file. He was under indictment for income tax evasion.

After I had been in office just a month or two, I had a telephone call from Claude Pollard who had been an attorney general of Texas. This former attorney general of Texas telephoned me in my office there

Smith -- I -- 3

in San Antonio one day and asked me if I was going to prosecute the case of George Parr. I told him yes, I intended to. He said, "Could I come up to see you, talk it over?" I said, "Certainly." So in just a few minutes he came to my office, and he had George Parr with him, and for the first time I recognized George Parr and remembered who he was. In the summer of 1924 I had stayed in law school at Austin for summer school. I boarded at a house down the street from where I lived and George Parr boarded there, too. He used to walk back up to my house with me and two or three other friends, and we'd sit out on the front and chew the rag till dark, you know, and then George would go on his way. I didn't know him very well, and that's all I knew about him, but I did recognize him when he came in the office with his attorney. I told them why I wasn't going to dismiss the case and I intended to prosecute it.

G: What did you say? What did you tell them?

S: That's what I told them. That's what I told them substantially. They weren't there very long and then they left. It was three or four months later I brought the case up for trial and prosecuted it. Without going into any detail of the facts--I'm going to loan you a letter I wrote the Attorney General on July 6, 1936. It was not very long before that that I tried George Parr. He pled guilty. I got up and told the court the details of the facts against George, and I recommended that George be put in the penitentiary. The judge overruled that and put him on probation, gave him a suspended sentence and put

Smith -- I -- 4

him on probation for two years and explained to George the terms of the probation, the main ones being that he would not violate any laws, state or federal, during the time of his probation.

Well, during the ensuing several months I used to get complaints from people that lived down around Duval County where George lived about George doing this and doing that, which were unlawful. Then when I'd tell them they'd have to testify to it in court, they'd back off and wouldn't do it, they were scared of him.

Finally not very long before his two years was up, I got some information about George committing what amounted to a forgery under the state law. He had doctored up an oil and gas lease. Where the lease said it was for one year and as long thereafter as oil and gas were produced in commercial quantities, after it was filed for record and before it was recorded he had gone into the courthouse and scratched out the "as long thereafter" provision. The leasee had drilled in the meantime a producing well. After the year was up, why, George demanded that he turn the lease back to him. The leasee wouldn't do it and George filed a suit against him.

It was during the deposition phase of that case when it turned out that George had doctored up that lease, which under the Texas law was a felony, a forgery. I talked with the attorney for the defendant in that case, the leasee under that lease. I had been in law school with him, his name was Ralph Wood; he lived in Corpus Christi. I can't think of the name of the leasee, but you can supply it from some

Smith -- I -- 5

information I'm going to give you in writing. So based on that I filed a motion to revoke George Parr's suspended sentence. I produced the evidence before the court, Judge Robert McMillan. After I had put up all my evidence, George Parr took the witness stand. He admitted that he had scratched out those words in the lease. When the evidence was all in, the Judge said that he had made a mistake in giving him a suspended sentence, which he said he's now going to correct, and he revoked the suspended sentence and told George he'd have to go to the penitentiary for a couple of years, which George promptly did.

In the meantime there was an application for pardon filed. It practically--all the high officials in Austin had signed it. Under the routine of those applications, it was referred to me by the pardon attorney of the Department of Justice. I looked it over carefully and wrote back a letter, which I referred to a while ago, dated July 6 or 8, I can't read it very well, 8 I guess, 1936, telling all about the case and recommending the application for pardon be denied, which it was promptly. So George served most of his time.

Later on--wait a minute, I want to mention one thing. Not very long before I prosecuted George on the main case--I'm not talking about the motion to revoke his probation--on the main case, the Attorney General of the United States called me personally, got me on the telephone, and asked me if I had a case pending before my court against one George Parr. And I said, "Yes, I do." He said, "Do you think it should be prosecuted or dismissed?" I said, "I certainly

Smith -- I -- 6

think it should be prosecuted." The Attorney General said, "That's all I want to know. You go ahead, and if [there's] anything we can do to help you, let me know." And he hung up. I learned very shortly after that that the reason he called me was that the Vice President, John Garner, was sitting right at his desk pleading with him, practically with tears in his eyes, to dismiss the case against George Parr, that John Garner was vice president because his father, Archer Parr, had been a great supporter of his all the years. John Garner didn't want his [Parr's] son prosecuted. Word of that got all around the Department of Justice, and I got a lot of credit for defeating the Vice President, which I would have done even if I had known at the time that he was in there. I didn't know it at the time, but if I had known, it wouldn't have made any difference to me.

G: Was this [Homer S.] Cummings at the time who was the one who called you?

S: Cummings was the attorney general.

G: Let me ask you, during the time that you were preparing to prosecute Parr and during the time that you were prosecuting, did you yourself receive any threats from him or his organization?

S: No. No.

G: Did prospective witnesses receive any threats?

S: Not that I know of. Not that I know of. If I had a known of it, I would have prosecuted somebody for doing the threatening. That's a felony, too, you know, to try to intimidate a government witness. No, I didn't know anything about anything like that.

Smith -- I -- 7

G: Okay.

S: Anyway, after George had served his eighteen months--well, he didn't serve quite all of it, he got a little time off for good behavior, served at least a year or something like that or a little more--then another application for pardon was filed, signed by practically every big shot in Austin from the governor on down, state senators and God knows who else, everybody in Austin almost. No member of the Supreme Court signed it I don't think. They wanted a full and unconditional pardon. I recommended against that and it was not granted. Then quite a few years after that is when that pardon to restore civil rights came up, and I've already told you about that.

G: We weren't taping at the time, so why don't you put this on the [tape], explain the--

S: Well, some years later--over five years later, because the law required at least five years interim between the time a man got out of prison and the time he made the application--he made an application for a pardon to restore his civil rights, which meant that if he got [it] granted he could hold office and he could vote, otherwise he couldn't. It had been my policy all the many years I had been district attorney to recommend those pardons to restore civil rights if the investigation by the FBI, which always was made, showed that he had not violated any laws after he got out of prison and during that five year and more interval, that he would be eligible for a pardon to restore his civil rights if the President wanted to grant it, or the President's representative, actually. Well, I recommended it just because that had

Smith -- I -- 8

been my policy. The FBI investigation showed that he had not violated any laws, that he had been playing politics, but that wasn't against the law. I made that recommendation with my fingers crossed, but I made it, and it was granted.

Now, a great many newspaper writers since then have stated that President Truman pardoned George Parr. Well, President Truman never pardoned George Parr. In the first place, George Parr never did get a full and unconditional pardon; he got a pardon to restore his civil rights, just as I've stated. But that was granted by the pardon attorney of the Department of Justice, who had authority to act on any pardon application and had authority from the President to act on them. They weren't referred directly to the President. This man, the pardon attorney, even had authority to sign the President's name to pardons to restore civil rights, and the pardon attorney did so. He was a good man. He never did fail to follow my recommendations about pardons of any kind. President Truman personally never had a thing in the world to do with it, and George never was pardoned except pardoned to restore his civil rights. He never had a full and unconditional pardon.

There was an application made about that time signed by a lot of highfalutin politicians and officeholders in Austin recommending a full and unconditional pardon. They even stated that George was not guilty of any offense, which I thought was rather silly, because George had pled guilty to this offense, pled guilty in open court. And I recommended against that pardon and brought it to the attention

Smith -- I -- 9

of the pardon attorney that all those politicians were doing it just because George controlled so many votes down in that area. They didn't want to antagonize him, which was true. I remember Jimmie Allred had signed the application; he was governor at the time. Members of the state senate, members of the house of representatives, a lot of different heads of the state departments signed the application. I wasn't a particle impressed by them. I have a copy of that letter somewhere, but I don't have it now, I don't know where it is, recommending against granting that full pardon.

G: Did you have any other involvement with the Parr case from that time on until you became--?

S: None at all. None at all. I remember I would see George occasionally and he wouldn't even speak to me, which I didn't mind at all, it didn't bother me. The first time he ever spoke to me after that was in the courthouse at Alice when I was holding that hearing.

G: Oh, he was there?

S: He came in one day. He didn't attend the hearing, but he came in one day during a recess, and he spoke to me and slapped me on the back, you know, real friendly. That's the first and only time he ever spoke to me after. . . .

G: Now, you indicated that you were off in the war when Coke Stevenson was governor, is that correct?

S: Well, a good part of the time he was governor I was off away from San Antonio in the navy during the war. I didn't know Coke Stevenson, I didn't know much about him. I hadn't voted for him up to that time.

Smith -- I -- 10

When the Democratic primary came along in 1948 and Coke Stevenson and George Peddy of Houston and Lyndon Johnson were running against each other for the United States Senate, I voted for George Peddy. I knew Lyndon Johnson, had known him a good while. I didn't know Stevenson. I may have met him a time or two, but I don't remember whether I did or not. He and I weren't friends at all, of course, I hadn't been around him any.

G: Any impressions of Lyndon Johnson from your acquaintanceship with him?

S: Well, my impression personally with him, I liked him all right, I didn't dislike him. I had no respect for him and I never did vote for him. I first knew him when he was state director of the National Youth Administration as I recall. I'm practically certain he had no assets of any kind except that job, or any assets that amounted to anything. When he went to Congress from the Austin district, I don't think he had any visible means of support except his salary as a congressman, and it wasn't long before he apparently was a multi-millionaire. I don't think anybody--

G: Was that the reason that you didn't respect him, because of the way he--

S: Well, no, I didn't respect him even before that. If I had, I lost it completely after he got in Congress and got rich so fast.

G: Did you view him as a liberal or a conservative or a populist?

S: I viewed him as pretty considerable of a liberal.

G: Yes.

Smith -- I -- 11

- S: I would have voted against him even if I hadn't known these other things about him, because he was a liberal. I'm not a liberal and never have been. I don't believe in it. A lot of the stuff they did, some of it is all right, but most of it I don't go for.
- G: Do you have any idea how the animosity between Lyndon Johnson and Dan Moody began?
- S: No, I don't. I really don't. I do recall that way back before Lyndon ever went to Congress the first time, Dan didn't like Lyndon and told me so. That may have influenced me to thinking not too much of Lyndon, because I had a lot of confidence in Dan Moody. He was an awful good man in my opinion. I think some of the things Dan told me about Lyndon kind of influenced me against Lyndon.
- G: What did he say, do you recall?
- S: I don't recall precisely what he said.
- G: Was Moody a conservative or a liberal or a moderate?
- S: Moody was pretty moderate. Yes. He was pretty moderate.
- G: Was he more liberal than you were, would you say?
- S: I don't think so.
- G: Now, you served in the legislature with [Alvin J.] Wirtz and you knew Moody while he was governor.
- S: Wirtz was in the senate, as I remember, from Seguin. Dan Moody was in his first term of governor and I supported his program.
- G: Did Moody and Wirtz get along at that time?
- S: I don't remember whether they did or not. I've got a sort of a hazy

Smith -- I -- 12

recollection that they opposed each other along certain lines, but I don't remember any details of it.

G: Okay.

S: I remember Senator Archer Parr, George's father. I knew him slightly, but I didn't know him too well.

G: Was he opposed to Moody? Did he and Moody have--?

S: I don't recall one way or the other. I don't imagine Moody had any respect for Archer Parr, knowing what I know about Archer Parr today. I certainly don't have.

G: Now, I guess the next thing we need to do is talk about your appointment as a special master in this, unless there's anything that happened in the campaign that is significant.

S: There's nothing that happened in the campaign that I remember that's of any significance to me. After the second primary, in which I voted for Stevenson--

G: They did pick up an awful lot of votes here in Bexar County in the second--

S: Lyndon picked up a lot of them because Stevenson, as I remember, had carried Bexar at the beginning, in the first primary, either carried it or it was awful close. And Lyndon picked up a lot of votes, a lot more, he got a lot bigger vote in the second primary than he did in the first. And Stevenson got a lot less.

G: How do you explain that?

S: I don't know. I didn't know at the time. And actually at that time I wasn't too interested one way or the other in who won that election.

Smith -- I -- 13

I really wasn't very interested. I was busy practicing law privately. I had resigned as district attorney a couple of years before that, two and a half years before that. I was practicing law privately and I was busy, and I paid not too much attention to that election. I'd read the paper every morning but I wasn't just carried away with all the news about it. I read the paper every morning now. I've always read the paper every morning, just to see what's going on in the world. But I wasn't inordinately interested in the outcome of that election or the things that happened afterwards. I read a few articles about the Stevenson complaint that Lyndon's people had stolen the election down in Precinct 13. I read the articles about them; I didn't pay too much attention to them. As I say, I was busy with my own business. Those kinds of things had happened before over the years and I wasn't too concerned with it.

But one day I was in Houston on some personal business, staying at the Rice Hotel, and I called home a little after six in the evening to call my wife, see how she was getting along, and she said, "Oh, have the newspapermen gotten in touch with you?" I said "No, what about?" Well, she said, "It's something about this primary between Stevenson and Johnson. They've been nearly running me crazy calling out here about it." She told me a little about what they wanted. She said, "They kept calling and kept calling and I kept telling them you were in Houston and I didn't know where you were exactly."

Then when that conversation was over I called one of the newspaper people in Houston, told him where I was, I was at the Rice, and

Smith -- I -- 14

told him to tell the rest of his newspaper crowd if they wanted to talk to me to come up to my room at the hotel, I'd talk to them. So about a half a dozen of them came up there within about an hour or less and told me that I had been appointed by Judge Whitfield Davidson as a master in chancery to hold a hearing on this complaint that Stevenson was making about the alleged theft of the election in Precinct 13 at Alice. Judge Davidson had appointed me master in chancery to go down there and hold a hearing on it. Well, that was news to me. I had never heard of it before, I mean the appointment. That's the way I found out about it.

G: You didn't have any idea that they were considering appointing you to that?

S: Not the slightest.

G: Really?

S: No.

G: Was that something you could have declined if you didn't want to do it?

S: Well, not exactly. When a judge asks a lawyer to do something for the court, that lawyer, he can tell the court he would rather not do it, but if the court insists, it's practically an obligation to do it. If a lawyer is any kind of a lawyer at all, he's obligated to the courts, you've got to help the courts along as much as you can, if they want you to. I did call Judge Davidson either that night or the next morning, I forget which, called him long distance and told him I heard about it through the newspapermen and I just wondered if I couldn't

Smith -- I -- 15

beg off of it because I was busy. I did want to help the court, but couldn't he get somebody else. He said, "No, I want you to do it." Well, when he said that, I said, "All right, I'll do it."

G: Had he known you, Davidson?

S: Yes, I first met him at the Democratic National Convention in Chicago in 1932 when I was up there as a delegate and Franklin Roosevelt was nominated for the first time. I was a delegate from Ector County out at Odessa where I was living at the time. I was district attorney out there, too, at the time. I think Whitfield Davidson had been promoting Roosevelt's candidacy for the Democratic nomination at the convention. Anyway, I got pretty well acquainted with Judge Davidson at that convention; I don't remember just how or why I did, but I did.

G: Do you think that one side or the other suggested or recommended you?

S: Well, I heard later that the Stevenson people recommended me, suggested my name. I heard that they did but I didn't know that. I had been in Judge Davidson's court quite a few times. I had known him a long time. After that Democratic convention I used to call on him whenever I was in Dallas and sit around and talk with him a little bit. He was always very cordial to me. And after he got appointed judge, why, I was in his court quite a few times, especially here in San Antonio. Shortly after the war there was a federal judge down here that died and I didn't have any judge. I'd get a jail full of prisoners that needed prosecuting and I didn't have any judge, I'd call Judge Davidson and ask him if he couldn't come down here and help me. There was another judge in this district, he lived in El Paso, Judge Boynton,

Smith -- I -- 16

but he was busy out there and couldn't come down. So I'd sort of in effect borrow Judge Davidson. I also borrowed Judge [Allen B.] Hannay of Houston at times. They'd take turns coming over here. They always liked to come to San Antonio, glad of an excuse to come. Judge Davidson would come down here and spend two or three weeks. I'd try a lot of cases before him during that time, and I was before him in his court in Dallas a number of times.

G: Did Judge Davidson tell you why he wanted you to be the master?

S: No, he didn't tell me why. He just said he wanted me to do it.

G: Did he elaborate on the--?

S: He may have done it of his own motion, I don't know. I heard later that Dan Moody and some of those fellows recommended it, gave him my name, but he may have done it of his own motion. He and I were good friends and I'd been in his court a lot.

G: Yes. How did he describe the task that you were about to undertake, do you recall?

S: He didn't particularly describe it, because being an old-time lawyer I knew what a master in chancery was supposed to do. I knew exactly what he was supposed to do.

G: But in this political atmosphere of Jim Wells County, in particular, did Judge Davidson attribute any special problems to that?

S: No. No, he just trusted me to hold a hearing and find the facts and report them to him, find the facts and make a recommendation based on them. I think Judge Davidson had enough confidence in me to think I'd do it right.

Smith -- I -- 17

G: So what did you do first?

S: He also appointed Mac [J. M.] Burnett to hold the same kind of hearings in Zapata County and Duval County. Mac Burnett had been an assistant district attorney under me. He's dead now, he used to live right around the corner from me here in San Antonio. He died about a year ago, he lived in Corpus Christi at the time.

G: What was your first move in getting the hearings started?

S: Well, Mac Burnett and I got together and we decided how to hold the hearings. We decided to call all the lawyers for both sides together at a meeting in the federal district courtroom in the federal courthouse in Corpus Christi for a certain day at a certain time. We got word to all of them to be there and Mac told me to do the talking. I told them what we had agreed to do and so we all showed up there, all the lawyers, Mac Burnett and myself. I made the announcement to them that since all the lawyers, most of them, practically all of them, were highly experienced in federal court, just so there wouldn't be any misunderstandings down the line, that we would abide by the rules and the ground rules of procedure in the federal courts. They all understood that, so there wasn't any question about how to proceed. While the meeting didn't last long, I told them where we were going to meet. I had gone previously over there to Alice and had seen the county judge and asked if I could borrow his courtroom. He said I could. So I told him when to show up there. Mac Burnett had done the same thing in those other counties. He told the lawyers that were going there when to show up and where.

Smith -- I -- 18

So after the meeting was over I went to see the federal judge in Corpus Christi, the judge or the U.S. marshal, I forget which, but anyway I think it was the marshal. I borrowed a deputy marshal to be at Alice with me to keep order in the courtroom and to serve subpoenas and to do all the things necessary to help the special master carry on that hearing. All those services were certainly important and necessary, especially serving subpoenas on witnesses. The subpoenas that were served were served at the request of either party to the case.

G: The list of lawyers seems to include, for Stevenson, Connie Renfro--

S: I knew him, he was from Dallas.

G: Josh Groce.

S: I knew Josh from here.

G: Austin Anderson.

S: Austin Anderson, I knew him from here.

G: Joe Montague, C. R. Winn.

S: Joe Montague was from Del Rio, if I'm not mistaken, but he had a brother in Fort Worth, and I forget which was Joe. I think he was from Del Rio.

G: C. R. Winn.

S: Yes, I knew C. R. Winn. I knew all those lawyers.

G: F. L. Kuykendall.

S: Kuykendall, as I remember, was from Austin. I knew him, I knew all those lawyers.

G: And Truman Phelps.

Smith -- I -- 19

S: Truman Phelps I didn't know quite as well as the others. And there's another one, there was one for Lyndon in the Alice hearing that you didn't mention his name, and I can't think of it.

G: Well, I've just mentioned the Stevenson lawyers so far.

S: Oh, the Stevenson lawyers. Yes.

G: I'm going to get to the Johnson lawyers in a second, but let me ask you, the names I've mentioned for Stevenson--

S: I knew the Johnson lawyers, too, good friends of mine most of them.

G: Did one of these Stevenson lawyers tend to take the lead in the hearing, do you think, or seem to be sort of--?

S: If I remember it correctly I think Renfro did. I don't remember that Josh Groce spent much time there. He may have. It seems to me he may have gone over to spend part of the time at Burnett's hearings. I don't remember exactly.

G: Were the hearings conducted simultaneously?

S: Yes.

G: And [for] Johnson the prominent names are Dudley Tarleton--

S: Dudley Tarleton of Corpus Christi was a good friend of mine. I'd tried a lot of cases against him in prior years, and he and I were good friends. His daughter later ran for the U.S. Congress or Senate, I forget her name now.

G: Sissy [Frances] Farenthold.

S: Sissy Farenthold. She is Dudley Tarleton's daughter. Dudley Tarleton also had a brother who was a clerk to Judge Allan Hannay over in Houston, the Southern District of Texas, up until--Hannay died the

Smith -- I -- 20

other day. Dudley Tarleton's brother was over there for years. I knew him.

Who was next after Tarleton?

G: Everett Looney.

S: Everett Looney, I knew him well. I had been in law school with him. He had been ahead of me, but I knew him. I forget where he was from.

G: He practiced in Austin.

S: In Austin, yes. That's right. I had known him; he was a year or two ahead of me in law school, but I had known him pretty well, good friends.

G: Ed Lloyd.

S: Ed Lloyd lived in Alice, and I met him for the first time down there at that time.

G: Ben Foster.

S: Ben Foster was not in the case in Alice. I don't remember him ever showing. Ben Foster had been an assistant of mine when I was U.S. attorney up here. I don't remember that Ben Foster was down there at all. Another man who had been an assistant of mine up here was there representing Lyndon Johnson.

G: Who was that?

(Interruption)

S: But [T.] Gilbert Sharpe was at the Alice hearing, and he had been one of my assistant U.S. attorneys when I was U.S. attorney here, especially after the war. A very close friend of mine. He was later chief justice of the Court of Civil Appeals at Corpus Christi.

Smith -- I -- 21

G: My notes show that he was actually the counsel for the county judge and sheriff of Jim Wells County.

S: Well, he may have been, but he was appearing on the Johnson side of the case.

G: Yes.

S: He was sitting with the rest of the Johnson lawyers in the case.

G: Were there any disagreements either among the lawyers or between you and the lawyers about the format of the hearing?

S: None at all. Not a bit of a disagreement. It was a very practical way to proceed.

G: Were they expected to furnish the witnesses, to see that the witnesses would appear or would they have a certain obligation?

S: I told them at the outset that any witnesses they wanted to call, both sides, either side, to let me know and I would issue a subpoena and give it to the deputy marshall to serve on the witnesses. I told them that I had reserved the right to subpoena witnesses myself if I thought I needed any.

G: Well, now, this seems to have been an issue in the hearing, whether the court could call its own witnesses rather than simply--

S: There was no issue made of it, they knew I had that right as special master.

G: I thought the Johnson lawyers challenged that.

S: Well, I don't recall that they did. If they did I overruled them. Special masters can certainly call witnesses.

G: Is that right?

Smith -- I -- 22

S: Sure they can.

G: Can a regular federal judge call a witness?

S: Sure he can. Of course he can.

G: Because I thought that during the hearing that was discussed and--

S: I don't remember that it was discussed. If it had been, I overruled it. Sure, a federal judge can call a witness.

G: The other area that seems to have been a problem was in actually issuing the subpoenas. The Johnson lawyers seemed to have objected to having people who were identified with Stevenson's legal staff and Stevenson's side serve the subpoenas. Do you remember that?

S: They didn't serve the subpoenas, the deputy marshal served them. I issued them and the deputy marshal served them. All the lawyers did, and I told them in advance, both sides, any witnesses they wanted subpoenaed to tell me about it and I'd issue the subpoena for them. I don't recall anybody objecting to that.

G: I thought from reading it that maybe Gardner had served some subpoenas or something like that.

S: Who?

G: Gardner, James Gardner, who was one of the investigators for Stevenson.

S: You think he did what?

G: I thought he had served some of the subpoenas.

S: No, no.

G: Really?

S: Every witness that was called before my hearing was served by the deputy marshal by a subpoena that I had personally issued and signed.

Smith -- I -- 23

I don't recall any question was ever raised about it. Those lawyers all knew that the special master had the right to call witnesses, even on his own motion if he wanted to. Up to the time this hearing was over, the only witnesses that were actually called were the names supplied me by the Stevenson people. The Johnson people knew though whenever they got around to calling witnesses, all they had to do is tell me the name of the guy and where he was and I would have a subpoena served on him.

G: Let me ask you about the witnesses that were not found, the first one being Donald I guess, Tom Donald.

S: Well, Donald disappeared that morning or the day before, I forget which. His wife said he left town and she didn't know where he was until he called her from Nuevo Laredo or Laredo, Texas, one or the other. So far as I remember now, he was the only one that had skipped out and gone to Laredo or anywhere else. There was some magazine article I read later that said all the witnesses, most of them, had gone to Mexico, but that was absolutely false. Donald was the only one.

G: Do you think that the Johnson lawyers could have gotten him back if they had wanted to? Could they have gotten him to come back from Mexico? Did they know where he was, do you think? Were they in contact--?

S: Well, they found out where he was during the trial because his wife testified that he had called her from Laredo. I guess they knew it.

Smith -- I -- 24

They were sitting there and heard her testify. Now whether they could have gotten him back or not, I don't know.

G: The Johnson side seemed to have wanted that Mr. [C. H.] Holmgreen to testify and he was out in California.

S: Holmgreen was the county clerk, wasn't he?

G: Right. He was the new one I guess, the incoming.

S: Yes. I don't know. One of his deputy clerks was there, that lady, I forget her name now.

G: [Juanita] Hulsey I think.

S: Yes. Mrs. Hulsey.

G: Well, did you have any thoughts on the absence of Holmgreen? Do you think that that was intentional?

S: No, I didn't necessarily think it was because his deputy was there, deputy clerk. She knew as much about it as he did. No, I didn't think anything about that. I did think something about Donald being absent.

G: Did you?

S: Yes, sure.

G: Well, let me ask you to describe the hearing, not so much who said what or anything like that, but the atmosphere, the general tone of it, what you remember about the hearing.

S: Well, as I say, I'd borrowed the county judge's courtroom in the courthouse at Alice and held the hearing in there, and the hearing was held just about like any other court trial. We had that understanding in Corpus Christi the day before it started about what kind of ground

Smith -- I -- 25

rules we were going to have. I think I told them they didn't have to wear their coats if they didn't want to, and they could smoke if it wasn't against the rules of the county judge there in that courtroom. Of course, you can't either smoke or go in without a coat in a regular district court, but outside of those two things I think that we just followed the regular procedures of a federal district court trial. All the lawyers highly experienced, all the lawyers on both sides, we just proceeded that way and it all worked very smoothly.

G: How many spectators were there, would you say?

S: I don't remember. It was not a very big courtroom. I can't remember that it was loaded with people. It might have been. I wasn't paying too much attention about spectators.

G: Were there many reporters there that you recall?

S: There were a few. There were, I would say, approximately six or eight reporters there. One of them was from the Dallas News, who had been a very close friend of mine for a good many years. I can't think of his name. He's a Dallas News reporter and I knew him real well. He had been their Austin, Texas representative when I was U.S. attorney and I used to see him over there all the time when I was trying cases in Austin. That was in my district. I wish I could think of his name. He was a very fine reporter, one of the best I ever knew.

(Interruption)

G: Was there anything that happened in the hearing that one would not glean from reading the transcript?

Smith -- I -- 26

S: No, I don't think so.

G: Okay. Well, let me just--

S: I haven't read the whole transcript. I read the official report that I made to Judge Davidson after the hearing was over, I read it, but I can't think of anything out of the ordinary that happened. I do remember that a subpoena was issued for Luis Salas, and the marshal couldn't find him the night before. The subpoena was issued one afternoon and the marshal couldn't find him, tried to find him during the evening, couldn't find him. He did serve it early the next morning, and Salas showed up. I remember that Gilbert Sharpe came around to me early that morning and told me not to go into why Salas couldn't be found the night before. There's no use going into that; that's got nothing to do with it. I told you the other day why. I told him I wouldn't. He didn't want his wife to know where he was.

G: Okay.

S: Luis Salas, as you know, was the election judge of Precinct 13.

G: What was your impression of Salas' testimony?

S: Well, I found it pretty hard to believe when I was listening to him.

G: What about it did you suspect, what aspect of it did you tend to doubt?

S: Well, one thing in particular was when he testified that shortly after the polls closed at seven he went downtown to the office of the newspaper reporter, [Cliff] DuBois, D-U-B-O-I-S, who was representing the Texas Election Bureau, which as you know is an unofficial group of newspaper people who had a headquarters in Dallas to get election

Smith -- I -- 27

returns, put them in the newspapers around the state. Salas had testified that he went down to DuBois that night but he did not give him the returns of the election in Precinct 13. I didn't believe a word of that, because that's what he went there for. And my own thinking of it was verified by the testimony of a man named [Charles Wesley] Price who said he was there when Salas came in and Salas gave him the returns of 765 for Johnson and 60 for Stevenson in Precinct 13, which was about seven-thirty in the evening after the polls closed. Salas said that he didn't say that, didn't give him the [returns]. Well, I figured what the hell was Salas doing there if he wasn't there to give them the election returns. Of course, a good many years later Salas held an interview with some newspaper and said that he did tell him. I haven't read that report since it first came out. I kept a copy of it, but I can't find it. But Salas refuted practically all of his testimony that he gave and said he was lying. I thought at the time he was lying. I had a lot of experience with listening to witnesses; I had been listening to them for years. I had a pretty good idea when a man's lying and when he's not.

G: Now, I don't know about DuBois, but Price was really identified with the anti-Parr faction, wasn't he? Would he be a believable witness in a situation like this?

S: Well, I believed him. I believed him because I thought Salas was lying about it. I didn't know what Salas the hell was doing down there unless it was giving an election return.

Smith -- I -- 28

G: Did you ever hear informally from anyone else that Salas had reported this total? I think there was another fellow there, Ignacio Escobar or something, who reportedly wrote down some figures. Do you remember that?

S: Price testified that Escobar wrote down some figures. It seems to me that there was a subpoena issued for Escobar; I'm not certain. The official report I made will show whether Escobar was under subpoena or not. I kind of think he was, but I don't swear to it.

G: Would this suggest then that if Salas and others added some votes, that it was done after the ballot boxes were taken to the jail, is that right?

S: Well, I don't know when they were added, but I'm now convinced that they were added, 202 of them.

G: But presumably they would have been added after that point.

S: After the polls closed, sure.

G: Well, or after Salas told the newspapers.

S: Oh, sure, they were added after that. Sure.

G: Did you yourself ever--?

S: There's one thing that kept going through my mind during that whole hearing, which I thought was probably the most potent fact in the case. I'd read enough of the newspapers to know that at the hearing before Judge Davidson, the hearing before that old judge in Austin, and the hearing before the State Democratic Executive Committee, that if Stevenson were wrong about the illegally added votes, all the Johnson forces had to do was to bring the election poll list and the

Smith -- I -- 29

election record of Precinct 13 and show it to them, that there hadn't been anything added, but they never did do it. They never did do it. And if they had wanted to defeat Stevenson in the hearing before me, all they'd have to do is bring the official poll records of Precinct 13 of that day's voting and put them before me as proof. Of course, they may have done it later, but I didn't think they were going to. They hadn't ever produced it anywhere else. And to me, that was the most potent fact in the whole case, the fact that they had not brought those things in. That would have been a perfect way to refute the allegations of Stevenson. But they never did do it and they kept telling about how these poll tax lists had been stolen and misplaced. One of them was in a bank in Duval, in. . . .

G: Alice.

S: No, not in Alice--yes, in Alice. One of them was in a bank there. All they had to do was to bring it in there and it would have refuted everything Stevenson was claiming. I thought that was the most potent fact in the whole case.

G: Salas testified that his copy was stolen and that he borrowed Tom Donald's copy and his copy was stolen.

S: Yes, yes, all that. I didn't believe that.

G: The Johnson people on the other hand argued, or at least suggest, that perhaps when the ballot boxes were in the possession of the new county clerk, Mr. Holmgreen, that that's when they might have been tampered with.

Smith -- I -- 30

S: Well, could have been, could have been, but I think Mrs. Hulsey--is that her name?

G: Yes.

S: She testified that they were pretty securely kept out of reach of anybody, too. She testified this, I remember that. It's in my report.

G: You mean some of the ballot boxes were locked?

S: My recollection is she testified that she put them in a kind of a safe there in the clerk's office where they keep a lot of records. She didn't think anybody had come in there and tampered with them. I believed her.

G: She moved the one box aside, didn't she, from the others, the Alice [returns]?

S: I think so, hid it. Yes.

G: But the Johnson lawyers make the point that when the boxes were there, they were in the possession of people who were supporters of Stevenson.

S: Well, that may be true, but they also had a copy of it. One of the original copies of the election records was in that bank in Alice, and nobody's going to break into a bank and steal them, there's no evidence that anybody did.

G: Now, some of the people for Stevenson did see those lists before they disappeared.

S: That's right.

G: Gardner and--

S: Jim Gardner and Kellis Dibrell saw them.

Smith -- I -- 31

G: And [H. L.] Adams, the new county--I guess he was what, county--?

S: County Democratic chairman.

G: Okay. Did you ever have any impressions from their having looked at the returns?

S: Well, all I knew about it at that time was that according to newspaper reports, they had testified before Judge Davidson at least that they had seen the returns and that the last couple of hundred of them were in different ink and all in the same handwriting of every one of them before that, and that they were in alphabetical order. All I knew about it was what I read in the paper.

I did remember that and I personally knew Gardner and Kellis Dibrell; they had been FBI agents. I knew Gardner while he was an FBI agent. I didn't know Kellis Dibrell until after he had resigned from the FBI and started practicing law here. But I had known Gardner while he was in the FBI, had some business with him while he was in the FBI. I believed him. I believed Kellis Dibrell. They were both quite reputable, honest men. They didn't testify before me. If they had I certainly would have believed them.

G: Now, this is something that really concerned Judge Davidson's hearing, but I wanted to ask you about it because you're one of the best sources I could find on it. You had a lot of accusations back and forth that each side was inducing or threatening witnesses.

G: I don't recall any such thing as that.

G: Well, the one example in particular was that one of the witnesses signed an affidavit for each side, one saying that he did vote at such

Smith -- I -- 32

and such a time, another one saying, well, he said that because he was afraid and when he actually voted was such and such a time. Did you get any impression that strong-arm tactics were being used by one side or the other?

S: I don't recall reading about any such thing as that. That was evidence before Judge Davidson, you say? I don't recall. I wasn't there at that hearing, and if I read about it in the newspaper later, I don't remember it.

G: But when you were down there, you didn't have any evidence that one side or another might be using some strong-arm tactics to get witnesses to testify?

S: No. I had no such evidence before me down there.

G: And not just introduced in court, but any indication that this might be going on?

S: No, I didn't have any such indication.

G: The other thing that I wanted to ask you about here was with regard to the serving of subpoenas. I know that Mrs. Salas testified that she was served about midnight, which seems like a late time to serve a subpoena. Did this have an effect of intimidating witnesses, do you think? And what sort of witness--

S: I don't think so. That deputy marshal, he had been looking all evening for her husband and couldn't find him. If he went and served her at midnight, I don't recall it, but if he did, it's because he was frustrated about not being able to find her husband. I don't remember anything about her being served at midnight. She did testify the next

Smith -- I -- 33

morning if I remember it correctly. I may not be right about that. I don't believe she did. I don't remember. My report would show it. I don't think that's very important anyway.

(Interruption)

G: Let's talk about that, because that is an interesting point. I wanted to ask you about the question of opening the boxes and looking in the boxes.

S: Yes. He was objecting to it.

G: You're saying Tarleton? Now, let me set the stage for this by asking you to describe the boxes, what they looked like physically.

S: Well, a lot of them looked like garbage cans to me, metal garbage cans, I think most of them.

G: Were they clearly marked?

S: No, they weren't clearly marked.

G: Describe what kind of markings you remember on those?

S: I don't remember markings on them. The report I made might show a little bit about it, but I don't now remember any markings especially. I just don't remember. There's some of them marked some way or other that shows in the official report I made to the Judge.

Incidentally, you asked to describe the ballot boxes. There's a picture that you and I looked at the other day in the U.S. News & World Report of April 6, 1964, an article called "The Story of the 87 Votes That Made History." There's a picture on page 47 entitled "Ballot boxes in Jim Wells County were impounded by a federal court officer during the legal contest that came in the wake of the Texas balloting."

Smith -- I -- 34

Well, that picture is actually a picture of the bench, we call it, where the probate court always sat, where I sat during this hearing, with a desk out in front of me, with a lot of these Jim Wells County ballot boxes and a man standing there. That man was that deputy marshal. The other day I didn't remember it, but it was that deputy marshal from Corpus Christi. And the ballot boxes, you asked me what they looked like, you can see from that picture. They look like garbage cans, most of them. That's that deputy marshal right there, and that picture was taken during that hearing.

G: Your purpose in opening the ballot boxes was to find the third copy of the returns, is that correct?

S: It was either to find it or to show that it had been taken out, which it wasn't supposed to have been taken out, but to show that it had been taken out or that it was there, one or the other.

G: Yes. Now let me ask you this, how many boxes did you look in?

S: I don't remember, several of them.

G: Were there any that remained unopened completely at the end of the--?

S: I don't remember any were to remain unopened. I had to hire a locksmith to come and undo some padlocks on some of those boxes.

G: Well, one of the biographies raises the question of whether you opened just one or two or whether you checked all of them.

S: I think I checked most of them, but some of them remained unchecked when Judge Davidson called off the hearing.

G: Oh, I see. You didn't open any more after that.

S: I don't believe I opened any more after he called off the hearing, but

Smith -- I -- 35

I remember I did open the boxes that Mrs. Hulsey had identified as Precinct 13 boxes. There wasn't anything in them but some trash.

G: Now, one of them did contain the ballots, is that right?

S: If it did I didn't see it.

G: Yes. Because I thought it had--

S: There might have been a few ballots in it, but the records of the election were not in it, the records of the election in Precinct 13 were not in it, not in any of them. And I didn't expect to find it. If I had found it, I would probably have fainted. I didn't think it was going to be in there.

G: Well, Salas testified that he put all the ballots in one box, and the returns and the unused material in another, is that correct?

S: He testified that after he left the newspaperman's office that evening he put them in the trunk of his car and locked them up and went to a saloon, and when he came back somebody had broken open the trunk of his car and stole them, which I didn't believe a word of it. And he later refuted all that many years later.

G: Let me ask you to recall the Johnson lawyers' motion, argument, that you shouldn't open the ballot boxes.

S: Well, Tarleton made a very strenuous objection. Oh, it took him ten or fifteen minutes and waving his arms around in objection, "Oh, it's against the law, it's a penitentiary offense for anybody to fiddle with a Texas election box." I listened patiently, and when he got through I overruled him and asked the deputy marshal to open the box that I wanted to open, one of the Precinct 13 boxes. And the marshal

Smith -- I -- 36

had been so impressed by old Tarleton, Dudley's argument, he was scared he'd be put in the penitentiary, so he picked the box up and handed it to me trembling and handed it up to me, "You open it, Mr. Smith, you open it," which I promptly did. I wasn't impressed by the objection, but the marshal was. (Laughter)

G: You mentioned that the records weren't in the boxes, or the records you were looking for were not in the box. Was there anything else about the inside of the ballot boxes or the contents of the ballot boxes that impressed you one way or another?

S: The only thing that impressed me was the ones that were supposed to have been in Precinct 13 didn't have anything but some wadded up old newspaper in them that fell out on the desk when I lifted it up and turned it upside down right in front of everybody. Had nothing but some trash in it, which is nothing anymore than I expected.

G: Did any of the other ballot boxes that you opened seem suspect?

S: None of them seemed suspect to me because after the deputy clerk had identified the Precinct 13 boxes--I believe there were two of them--I wasn't too concerned about the rest of them.

G: When did you first learn that Justice [Hugo] Black was calling a halt to the proceeding or at least reviewing--?

S: It was during a noon recess I guess about the third day of the hearing. The newspapermen told me about it. So I went to the long distance phone somewhere in the courthouse. I forget whether it was in the courthouse, I guess not, I went somewhere where I could pay for the call, you know. I called Judge Davidson long distance and got him

Smith -- I -- 37

on the phone and told him what I'd just heard, [asked] what should I do. He told me just to go ahead with the hearing because he'd heard it himself through newspapers but he hadn't had any official word from the Supreme Court. Until he got official word from the Supreme Court, we'd just continue with the hearing. If he did hear from the Supreme Court to call the hearing off, that he'd promptly phone me, which a little later in the afternoon he did.

I kept the hearing going. I said it was during a noon recess when I called him. I opened the hearing up again after lunch, at the regular point in time, and went on for maybe an hour before I heard the phone. I was called to the phone by somebody there that answered it and Judge Davidson wanted me. He told me to call the hearing off, so I came back in the courtroom and announced that I was instructed to call the hearing off. I kept it going with all the lawyers present and with their consent long enough to wind up a few little details. I think it all appears in the official report I mailed to the Judge.

G: I think it was primarily getting the boxes back to their condition.

S: Yes. Yes, and a few little details that needed to be wound up.

Nobody objected to it. We took no more evidence or anything like that and finally just wound it all up and closed it out and left.

It was during one of those noon hours when George Parr came in. He didn't attend the hearing at all, but he came in during the noon hour one day when I was not sitting on the bench and was real friendly for the first time in years. He slapped me on the back and shook hands and grinned, you know, just like we had been old friends. (Laughter)

Smith -- I -- 38

He hadn't spoken to me in years. George later, many years later, committed suicide, after he had been prosecuted and convicted for some federal offense, I think it was income tax evasion again or something. His case was on appeal but he committed suicide. His nephew had been convicted and went in the penitentiary, Archer Parr, who was named for his grandfather. The newspapers always called him and his grandfather Archie, A-R-C-H-I-E, which was incorrect. It was A-R-C-H-E-R was their names, Archer Parr.

Many years [later], not too long before Archer Parr and George were prosecuted, I was on the State Board of Law Examiners. I gave a bar exam in the state Capitol at the House of Representatives one day--it was in the late 1950s because I went on that board in 1956--and young Archer Parr took the bar examination. I knew who he was. I forget why and how I knew, but I did know who he was. When the bar exam was over and he walked out I thought to myself, if he was smart he wouldn't go back to Duval County and tie in with his uncle, wasn't it, because it'd get him in trouble and he'd probably wind up in the penitentiary. I thought that to myself. He did go back to Duval County and got to working with old George and he got in trouble and did go to the penitentiary, you know. But that was just a thought I had when he came out of that bar examination that day.

George's case was on appeal. Archer went to the penitentiary and served his time. George didn't serve his time because he killed himself out on his ranch.

Smith -- I -- 39

G: Let me ask you. One author has suggested that after the first phone call when you realized or had heard that the Supreme Court had done this but Judge Davidson hadn't gotten any official word, that perhaps you speeded up the hearing and really went ahead and looked in the ballot boxes so that you could determine what was in there.

S: I don't recall speeding it up. I do recall looking in some ballot boxes after that. I did want to get that done before the hearing was called off. I don't remember speeding it up especially. As a matter of fact, I kept trying to speed the whole thing up; I kept prodding the lawyers to not fiddle around because the whole thing was due back before Judge Davidson within a week or so and I wanted to get it over with. I jumped on Stevenson's lawyer several times about fiddling around and wasting too much time. What they were trying to do, and I thought it at the time, I think they were just trying to slow it down so damn much they wouldn't get back before the court. I jumped on them several times about wasting time and told them why. There was a deadline for that hearing and I wanted to get it over with and get it finished.

G: On Holmgreen's absence, the one that was in California, from the testimony you apparently talked with his son one night in an effort to determine the whereabouts of his father or this sort of thing.

S: I don't remember that. I may have. I don't remember that I considered it too important that he be there once his deputy was there, knew as much about it as he did.

Smith -- I -- 40

G: Now let me ask you about your report back to Judge Davidson. I know you wrote a summary of the testimony.

S: I wrote that after the hearing was over and after I got back to my office in San Antonio, as I remember it.

G: Did you talk to Judge Davidson about the hearing? Did you discuss it with him, or was it pretty much academic at this point?

S: I asked him if he wanted me to file a report. I told him that the case was a long ways from being over, that the plaintiff-Stevenson crowd had not yet finished their testimony and the Johnson-defense people had not even had a chance to come on and put their witnesses on the witness stand. I told him that. The hearing was far from concluded, and I asked him if he still wanted me to file a report. He said, "Yes, I wish you would file a report of what evidence was taken and what happened clear up to the time that the hearing was closed," which I did after I got back home.

G: What were your own conclusions of what happened down there as a result of what you learned in the hearing?

S: Well, my own conclusions about who was right in the matter?

G: Yes.

S: Well, I was very much of the opinion, subject of course to testimony from the Johnson side, that the Stevenson people were right. The main reason was the failure of the Johnson people to produce the official records of Precinct 13 voting. They could have stopped the whole thing anytime by doing that. And they didn't produce them. I knew that there was one copy stashed away in a bank and I didn't believe

Smith -- I -- 41

Salas about them stealing them from him. They could have stopped the whole thing at any time by producing the official records of that Precinct 13 voting, which they didn't do. That to me was the most potent piece of evidence in the case, was their failure to produce it. Now in my hearing they hadn't had a chance to produce it because they hadn't come to bat yet before me.

G: Right.

S: They hadn't produced it before Judge Davidson, they hadn't produced it in Austin before that district judge, they hadn't produced it before the [State] Democratic Executive Committee. If they had produced it before me, I would have been glad to see it. And if they had produced it and it showed that there weren't any extra votes put on there, I would have held for Johnson. I hadn't closed my mind at all; I hadn't closed my mind. My duty to the court and my duty to myself in my own code of ethics was to be impartial in the case and to find, from the preponderance of the evidence, and I hadn't heard all the evidence. I didn't pay much attention at that time to what I had read in the newspapers. I had been district attorney so many years and so many of my cases that I tried had been written up in the papers, and practically none of them were all--the write-ups were not altogether accurate. I didn't always believe what I read in the paper anyway. I didn't know whether these articles that I had been reading just in the daily news had been accurate or not. As I say, they'd written a lot of my cases up that I knew weren't accurate. So I don't necessarily believe everything I read in the paper and I didn't then. But I was

Smith -- I -- 42

open for--I was kind of leaning, so far as it went, toward the Stevenson side, mainly because nobody had ever produced the record of that election, the voting record.

G: Do you think it still exists?

S: The voting record? I don't know. I don't know. But I certainly had an open mind. I would have held for Johnson just as quick as I would have for Stevenson if the evidence had been there to support it.

G: Other than Salas' testimony in recent years, have you heard anything or learned anything since that time that either confirms or makes you doubt your belief at the time?

S: I firmly believe now and have for years that that election was stolen there in Precinct 13.

G: Has any evidence other than Salas'--

S: Refutation of his--

G: --refutation of his testimony, has anything else come to your attention?

S: Well, I've talked to Jim Gardner and Kellis Dibrell about it, more than once I guess, I don't know. They're good friends of mine. I wasn't connected in any way with Kellis Dibrell but I officed in a little building that he owns, I officed there for five years many years later. We've talked this matter over several times, just sitting around chewing the rag. I believe that they told the truth when they said that--and they told me this personally, not something I read in the newspaper--that they saw those 200 votes added in and the same handwriting in the different ink than what had been used prior to seven o'clock that day, seven o'clock in the evening, different ink.

Smith -- I -- 43

Alphabetical order, a couple of hundred votes. Each of them told me that they saw it and I certainly had no reason not to believe them. I've long been convinced that that election was stolen in Jim Wells County. And it turned out that it elected Johnson by 87 votes state-wide. I don't know, the Stevenson people might have stole a lot of votes somewhere else, I don't know that. But I do know that it turned out that those stolen votes in Duval County did decide the election. I think Lyndon was put in the United States Senate with a stolen election, and I think he and everybody else knew it. They called him Landslide Lyndon, you know, after that.

G: Is there anything else about your involvement in the hearing that we haven't talked about?

S: You asked me the other day if I received any threats or was reluctant to go down there on account of I might be shot at or assassinated or something. You asked me the other day. I received no threats. I was not in any way afraid to go down there. My older brother and two or three friends of mine advised me against going down there. They thought I'd get shot at or something. I didn't pay any attention to that. I went on down there anyway. I'd been district attorney too long. I'd been threatened a good many times when I was district attorney, but I paid no attention to it. I never paid any attention to anybody that threatened me. I was a little bit leery of some guys that would sit around and look at you and say nothing, some of those criminals you know, but when they threaten you they're just running a

Smith -- I -- 44

bluff. Nobody threatened me. I didn't feel at ease in Alice. I didn't stay there overnight.

G: Where would you stay?

S: I stayed at Corpus Christi. I stayed in a nice hotel over there. I think Mac Burnett did, too. No, no, he didn't. He had too far to go. I did, I stayed in Corpus Christi. I already had a room there so I just stayed over there.

G: Did you have any involvement with LBJ after the 1948?

S: Well, I told you earlier in our interview here that I used to see him in Washington very often. When I was U.S. attorney I'd go up there on Department of Justice business. Every time I went there I'd go to see Senator [Tom] Connally over in the Senate end, and then I'd go to see Ewing Thomason who was the representative from the El Paso district, which was my old stomping grounds. I had known him for many years and had supported him. He generally took me to lunch over there in the House restaurant. Then every Monday or Tuesday, the Texas delegation had a little meeting of their own in one of the rooms in the Capitol. Ewing Thomason would take me there, as more of just a friendly session, you know. Johnson was always there, and I used to see old Johnson around there. I saw him quite a few times.

G: Did you see him after that?

S: I saw him once when he was vice president. He came here to make a talk one day before the San Antonio Bar Association, if I remember that's the organization, I'm pretty sure it was. It was I think at their annual meeting. I think it was the Bar Association. Anyway, he

Smith -- I -- 45

made a talk before a lot of people at some place downtown, and after it was all over I went along with a lot of other people, I went around to greet him and shake hands with him. That's the last time I ever saw him.

G: Well, I really appreciate it. You've been very helpful.

S: I do want to make it clear that I had an absolutely open mind when I held that hearing down there. I'd have held for Johnson just as quick as I would have for Stevenson. After all the evidence was in, had it all come in and I had had time to think about it and pass on it, I would have followed the preponderance of the evidence, or what I considered the preponderance of the evidence, and I would have found accordingly, no matter which side it was. I had no feeling one way or another about that.

As I told you before, I couldn't help but think all the time though about that failure of the Johnson people to produce those official election records of Precinct 13. I didn't believe they'd all been destroyed, especially that one in that bank in Alice, and I didn't believe old Salas' had been stolen out of his trunk either. I also couldn't help but think all during that hearing about the failure of the Johnson people to produce them at the hearing, the various hearings that took place before that, before the state court in Austin, the federal court in Dallas, the Democratic executive committee. They had chances to produce them in all that and never did. Their failure to do it was a fact that I considered as very important in the case. I was certainly ready to change my mind about it if they

Smith -- I -- 46

had produced them and had shown that there were no alphabetical 200
[votes] added to it and all that stuff.

G: Well, I thank you very much.

End of Tape 1 of 1 and Interview I

GENERAL SERVICES ADMINISTRATION
NATIONAL ARCHIVES AND RECORDS SERVICE
LYNDON BAINES JOHNSON LIBRARY

Legal Agreement pertaining to the Oral History Interview of William Robert Smith

In accordance with the provisions of Chapter 21 of Title 44, United States Code and subject to the terms and conditions hereinafter set forth, I, William Robert Smith of San Antonio, Texas do hereby give, donate and convey to the United States of America all my rights, title and interest in the tape recording and transcript of the personal interview conducted on November 9, 1983 at San Antonio, Texas and prepared for deposit in the Lyndon Baines Johnson Library.

This assignment is subject to the following terms and conditions:

(1) The transcript shall be available for use by researchers as soon as it has been deposited in the Lyndon Baines Johnson Library.

(2) The tape recording shall be available to those researchers who have access to the transcript.

(3) I hereby assign to the United States Government all copyright I may have in the interview transcript and tape.

(4) Copies of the transcript and the tape recording may be provided by the Library to researchers upon request.


(5) Copies of the transcript and tape recording may be deposited in or loaned to institutions other than the Lyndon Baines Johnson Library.



Donor

april 11, 1984

Date



Archivist of the United States

april 30, 1984

Date