

INTERVIEWEE: LARRY E. TEMPLE (TAPE #4)

INTERVIEWER: Joe B. Frantz

August 7, 1970, Austin, Texas

F: This is an interview with Mr. Larry Temple in his office. [Interview] number four in Austin, Texas, August 7, 1970. The interviewer is Joe B. Frantz.

Let's talk first about your close sideline view of the negotiations with Hanoi--the on-again, off-again situation; the offer to engage in peace talks.

T: Well, I remember the occasion when the President got word that Hanoi would accept, I guess, the initiative that was contained in his March 31 address. It was the morning when he had a scheduled appointment with Senator Henry Jackson--Scoop Jackson--from the State of Washington. The occasion was the birthday of Senator Jackson's son. My recollection is that he was about a four or five-year old son. Senator Jackson had asked the President if he could bring his son in on that occasion and have the son's picture made with the President. The President agreed. My recollection about the date is not clear but whatever date it was that he got word.

I had been, as I usually was, with the President early that morning in the bedroom when he was getting prepared to go over to the office for his morning appointments. Well, first of all, it was just a usual ordinary morning. There wasn't anything special about the morning up to that point. He noticed that he was having his appointment with

Senator Jackson and recalled the purpose of that appointment.

F: Did he enjoy that sort of thing, or did he just look on it as one of the things he had to do?

T: No, he enjoyed it. That was something he did enjoy. I think he instinctively recognized that people put a great store in having their picture made with the President. He never complained at all about having his picture made with the people, nor did he complain about the monumental amount of autographing of pictures.

F: When did he do that, just at odd times?

T: He'd do it usually late in the evening--at odd times, but usually late in the evening and there'd be a stack of maybe a hundred or two hundred pictures on the so-called signing table behind his desk. The pictures were not signed by anybody but Lyndon Johnson. I'd always heard about how machines or people signed pictures for political officials, but he signed his own. Just as an aside, I can recall many times at night--maybe from nine o'clock till ten o'clock, or ten o'clock till eleven o'clock--he would sit at his signing table and sign all the multitude of documents that a President has to sign--fr. proclamations, correspondence, autographing the pictures. I've seen him many times sit at that signing table maybe an hour, or hour-and-a-half at a time, and do nothing but sign his name. I say nothing, that's not quite right--

F: He'd carry on a small conversation.

T: Right. He had the faculty of being able to carry on a conversation while he was doing the signing. So he didn't raise any question about that. He never complained about it. I think that I would have complained bitterly about having to sign my name so much or have my picture made

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so much, but he didn't.

F: Got a forgery expert in.

T: That's right.

F: I've heard people talk about not only Johnson--I don't want to leave
this subject, but while we're on this--all these ceremonial and personal
meetings are an intrusion on the main business of getting on with what-
ever the country needs, and that this is really a hanging to the
President. I have wondered though in his case if it were a release at
times. In other words if it gave him that little break in pressure.

T: I think it did. More than that, I think maybe even in recent days
we've heard about the isolation of the President away from people. This
afforded him an opportunity during the social visits or social occasions
to ask whatever was on his mind at the time. You go a fellow like
Scoop Jackson, who not only is a long-time friend and confidant of
Lyndon Johnson, but also a very knowledgeable leader in Congress--this
affords him the opportunity to talk to Senator Jackson and ask him about
maybe the reaction on Capitol Hill of the March 31 speech if that happened
to have been then or now thereafter, or whatever happened to be timely
at the time.

But with that particular day, he saw that he was meeting with
Senator Jackson, and he immediately recalled that staying at the White
House -----

INTERVIEWEE: LARRY TEMPLE (TAPE #6)

INTERVIEWER: JOE B. FRANTZ

August 11, 1970

F: This is the second tape of the fourth interview with Mr. Larry Temple.

T: I think what I just said was that--not really surprisingly--this racist, anti-Semitic thing really inured to our benefit because I think none of the responsible members of the Senate--none of the members of the Senate, all of whom I think are responsible, even those that were opposing the nomination--thought well of this. So a lot of these things sort of ricocheted on the people who opposed Justice Fortas.

In any event the President was right as it turned out, and he called the shots exactly correctly because our support started deteriorating. As long as the nomination was in process and Senator Eastland, Senator Ervin, the members of the Senate--Senator Griffin--who opposed this nomination and were able to drag their feet, they I think knew that.

F: Delay was in their favor.

T: Right. That we had the votes and if they were to defeat the nomination, it had to be out of delay.

There were several things that were harmful to us--all of which are a matter of public record. But in my judgment the key thing--if we were not dead on the nomination before--the key thing that really broke our back was the revelation that Justice Fortas had received some fifteen thousand dollars from American University for delivering some lectures while he was a member of the Supreme Court. Even our most ardent supporters

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found this to be sort of an objectionable thing with them. They were upset about it. Obviously we didn't lose our ardent supporters, but I think it may have undermined their ardor for the battle because they thought that it was an unfortunate and an unhappy situation. Just as the President predicted, and which I had not believed until it happened, Senator Dirksen ultimately announced that because of the information that had been revealed at the hearings and during the course of the consideration of the nomination, that he would not be able to support Justice Fortas.

You know from a matter of the recorded history that we never did get to a vote on the merits. I'm satisfied that on a vote on the merits that Justice Fortas would have a majority. The one vote was the vote on cloture after protracted filibuster. I don't remember whether the vote was forty-seven to forty-seven in favor of cloture, or forty-six to forty-five, but it was a one-vote differential for cloture. But that vote as you know requires two-thirds of those present and voting, so it was not sufficient to cut off debate. In view of the fact that it was not sufficient to cut off debate and coupled with a couple of other things.

One, Senator Mansfield, who was for Justice Fortas, declined to put the pressure on the opposing Senators by keeping the Senate in session around the clock. Now in fairness to Senator Mansfield, I don't know whether this was because he didn't think that he had the votes and support to keep them in session or whether that just wasn't his cup of tea as it was Lyndon Johnson's cup of tea to keep them in session to break the filibuster on civil rights back in the '50's. But nonetheless he didn't. And there were other pending matters before the Senate that were of great

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importance--the Non-Proliferation Treaty was before the Senate. There were other legislative programs that had to go through that this was blocking.

F: If you had to sacrifice anything, in a sense, sacrificing Abe Fortas was the easiest thing to do.

T: As compared to the Non-proliferation Treaty, I think even Abe Fortas would recognize that. Justice Fortas asked the President to withdraw his nomination, and it was at Justice Fortas' initiation that it was done. Justice Fortas--who I came to know as not only a very bright, very able, and a very tough man--was a very tormented man throughout thos whole nomination process because he was not able to fight back. He couldn't say to Sam Ervin when Sam Ervin said, "Justice Fortas, I think you've been guilty of a conflict of interest,"--he was not able to say to Sam Ervin, "Well, Senator, while you're up here voting on textile import quotas, you appeared before the U.S. Supreme Court representing some textile people in your home state and you get a fee for that. I would suggest to you that that was a conflict of interest." Well, those were facts we had, but weren't able to use and Justice Fortas wasn't able to use them.

F: You couldn't use the adversary system here.

T: That's right, and ~~that~~ was a great source of torment and frustration for Justice Fortas. He was pretty well spent by the time the vote on cloture came.

F: I recall that he won some admiration by keeping utterly quiet through the whole thing because people did expect him to be peppery.

T: Right.

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F: It must have been a great discipline.

T: I think he was and is. But anyway, as you know and as the record reflects, the President did withdraw the nomination at Justice Fortas' request. Just as an aside, he had to obviously withdraw the Thornberry nomination. As I say, Thornberry never came to bat.

I think that one other thing that I mentioned to you in that earlier tape that I ought to mention again--the President asked me when he first started talking about these nominations who I would suggest to him, what my recommendation would be for an appointee to Chief Justice; or if he decided to nominate Justice Fortas as an Associate Justice. I called my friend Charlie Wright, professor here at the University of Texas Law School, because Charlie was and is a recognized expert in federal law and federal judiciary. And he gave me some names--names which I used, by the way, with the President.

I recall in the bedroom one morning he asked me what I thought of Homer Thornberry, and this isn't an "I told you so" sort of thing because I never envisioned what did finally transpire. I told him, which I honestly think, that Judge Thornberry is one of the really fine judges, and I think history will reflect that he is a fine judge. He came from the Congress to the federal judiciary under a little bit of a tainted circumstance because there were a lot of people that accused President Kennedy, who nominated him to the Federal District Judgeship, of nominating out of political consideration--that this is a man who is a politician and not really qualified, not the caliber of lawyer that was qualified to be a federal judge. Then when President Johnson elevated him from the district judgeship to the Court of Appeals, there were those that said

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that that was based on friendship with the President, and that he might not be the caliber of man who ought to be in an appellate judgeship. I think that any study of Homer Thornberry's actions and decisions, his record as a District Judge and his record as an Appellate Judge, will indicate that he is a fine judge. And I think that judicial history will reflect him as being not only in the sense of all-time or all judges, a fine judge, and rank very well with any and all of them. I think history also will reflect that during the time of the turmoil and transition domestically in this country when he was on this bench, that he renders his decisions wisely and judiciously and with a great compassion and understanding about the situation.

Nobody can accuse him of being a politician in his decisions or being backward or anything else. You'll notice, for example, that when those kids demonstrated against the President up at Killeen in 1968 and they were picked up for disturbing the peace. The three-judge Federal Court, of which Judge Thornberry was the key component, looked at the question of the charge of these kids who had been out there just disrupting everything the President was trying to do in Central Texas College in Killeen--that if Homer Thornberry had been the political judge or the politician that some people thought he was, that the political decision would have been to uphold the constitutionality of that disturbing of the peace statute; in effect uphold the conviction for them disturbing the activities of Lyndon Johnson. But that wasn't what Homer Thornberry did. He overturned the state statute, and there are a lot of other things he did. In any event, I don't claim to be objective about Homer Thornberry. I'm fond of him personally, but more than that I think he is

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a fine, fine judge.

But I did express to the President some doubts in my mind about the appointment. I didn't use the word "crony." I didn't think it, but if I had thought of it I don't think I would have used it because I don't think that fairly characterizes their relationship. But I did suggest to the President that I thought there might be a problem, again, if he named Judge Thornberry because I remember--. I was in Austin when Judge Thornberry was nominated to the district bench and to the Court of Appeals and I remember that there were a lot of people that raised the hue and cry that it was done just on personal favoritism and personal friendship and that he lacked the qualifications to be appointed to those two seats.

I told the President that while I was one of the people who strongly disbelieved that and strongly thought that Homer was a good judge, that I thought that if he named Judge Thornberry that it would not be helpful to Judge Thornberry because he would be the recipient of all these accusations. Number one. It would not be beneficial to the Supreme Court because even if as I anticipated he would get confirmed--I did anticipate that almost whoever the President nominates gets confirmed. I never anticipated this kind of problem--that he would go on with a little taint. While people like Hugo Black had gone on with a KKK taint and long since outlived it, that during this critical time in the history of this country I thought it would not be helpful to have somebody go on the Court with a taint, either to them or to the Court. Then lastly, that Lyndon Johnson would never get credit for making the caliber of appointment I thought that would be.

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So I had doubts about his appointment of my good friend, Homer Thornberry, and the President started chastising me about it. I think as I mentioned to you the other day the President would say to people, as he'd say to me on other occasions--he didn't say it on this occasion--but if you started telling him what the political pitfalls of something were, he'd say, "What political office did you ever get elected to." And get the obvious "none" response. He'd say, "Well, don't come to me as any great knowledgeable political expert until you've run and gotten elected to a political office. When you've got elected anything from J.P. up, then I'll listen to your political judgment. But until then, you're not a political expert." And that was the way he would tend to put down people whose judgments he might disagree with.

He started to chastise me about that, saying in effect that my political ^{judgment} ~~wasn't~~ wasn't very good and he didn't ask me about my political judgment. He just asked me ^{what} ~~was~~ kind of a judge Homer Thornberry was. He didn't ask for this extra information of what I thought the political problems were. But I remember right in the middle of that chastisement--if that be what it was--I just looked upon it as a conversation--

F: Rebuttal anyhow.

T: That's right. Right in the middle of it, Mrs. Johnson said, "Lyndon, he may be right about that, and that's what worries me about Homer--although I'd love to see him on the Supreme Court." And just that word stopped the President. There wasn't anything I could do to stop him, but Mrs. Johnson's words stopped him from any further chastisement of me about it. I regretted that it turned out that I was 'way more right than I wanted to be. I didn't envision it as being as significant a problem as it

turned out to be.

F: As far as you know, did he ever consider naming Thornberry to the Chief Justiceship instead of Fortas?

T: I think maybe that thought crossed his mind very briefly. When Harry McPherson and I went to see Senator Russell, he said, yes, he was for Fortas and he was for Thornberry, but he thought the President was making a mistake and had told the President that; that he thought the preferable decision would be to name Homer Thornberry to the Chief Justiceship; that while he, Senator Russell, had philosophically disagreed with Homer Thornberry when he was in Congress and probably philosophically disagreed with some of the decisions he had rendered as a judge, that he, Senator Russell, had a very, very high regard and respect for Homer Thornberry's integrity, his ability, and the way he could handle situations and handle people. He thought that Homer Thornberry had all of the qualifications to be a fine Chief Justice, and that if he, Senator Russell, had been President, that he would nominate Homer Thornberry to the Chief Justiceship. I don't really know that the President gave much thought to it, some passing thought.

He thought about other people. I remember Cy Vance was a name that he thought of. This was before he sent--

F: Vance to Europe.

T: Yes. No, it was after he had sent Cy over there. He thought about Cy and several others, but I'm inclined to think--. Nobody really knows this but Lyndon Johnson. I don't think he confided in anybody else. I'm inclined to think that almost from the outset he thought of Fortas for the Chief Justiceship and thought of Thornberry for the other position, and

then went through the process of eliminating all of the other possibilities.

F: I think that's a technique of his, whether conscious or unconscious, just to sort of make up his mind, think of all the other possibilities, and then check them out and off.

T: I think that's right.

F: The Republicans make a great deal of the fact that really there was no vacancy, that Warren had never resigned. There's this little sort of cryptic bit in the phrasing--kind of like Coolidge's "I do not choose to run." The President never had any doubts that there was a vacancy?

T: No. We never had any doubts. I think that that was just a facade that the opponents threw up as just another arrow in their arsenal to try to defeat the nomination. I don't think there was ever much technical legal doubt about it. There was some raised by people like--again, I use Sam Ervin because he, to me, epitomized the Southern opposition. Obviously the Republicans were being led by Senator Griffin, but Senator Ervin and Senator Griffin really led the opposition. They raised the point, but I don't really think they thought that was a valid point.

F: It was just something to throw in.

T: Particularly in view of the fact that there had been several retirements or resignations from lower levels of the federal courts the same way, and some early precedence on the Supreme Court. There wasn't much legal doubt in our minds about it.

F: As far as you know, did the President ever accuse Ramsey of having lost the nomination of Fortas for him by his foot-dragging in the Alexander case?

T: No.

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F: He kept those somewhat separated.

T: He kept them separate.

F: What's the story on Barefoot Sanders?

T: You will recall that at the time of the Fortas-Thornberry nominations, there were several other vacancies pending in various courts--well, the one we were talking about in Georgia. But there were some new positions created in the 9th Circuit in California as well as some other vacancies around. Well, there were some in Texas by the way, which is another story I hadn't thought of that has some interest. But one of the vacancies that was open because of, I believe, retirement as opposed to the creation of a new position, was the United States Court of Appeals for the District of Columbia. The President decided that he wanted to appoint Barefoot Sanders to that position. He cleared that appointment not only with Senator Yarborough and Senator Tower--since Barefoot still maintained permanent residency in Texas--but I recall that he cleared it with Senator Dirksen. The primary reason for clearing it with Senator Dirksen was in recognition that it was close to the end of the Presidential term. He nominated Barefoot and some others but when the later controversy came up, it really related around Barefoot. But there were about six or seven total appointments, and the appointments that were made at the same time Barefoot was--history can reflect which ones they were. And I recall that at the time he made the appointments, I guess it was after--

F: This was after Fortas had closed down?

T: Yes. It was after the election, I know. I seem to have in the back of my mind that he had submitted the names earlier, and then he resubmitted them when Congress--after the election, but I may be mistaken about

that. But anyway when he submitted the names--and I'll just say the Sanders' nomination and others--it was after the election. Richard Nixon had been elected President, and there was some indication at that point that Mr. Mitchell was going to be the Attorney General.

The President told Ramsey that he wanted Ramsey to call Mitchell and tell Mitchell to tell Nixon--that was another one of the round-about ways that we sometimes did business--that he was going to make these nominations, but he did not plan to fill every vacancy on every federal judgeship; that these were ones that for one reason or another needed to be filled because of the press of business in the various courts; and that he wanted Mr. Nixon to know that he wasn't just trying to make some midnight appointments right before he went out of office just to fill them up or to appoint friends or to appoint anybody he had commitments to. These were judgeships that he thought needed to be filled; and that he was going to fill them for that reason; and that there were other judgeships that were not quite as pressing. He was going to leave those judgeships open and would not make the appointments and leave them for President Nixon when he came into office.

Ramsey reported that to later-Attorney General Mitchell. Then later in the day he had occasion to call Mr. Mitchell on another matter. Let me, just to have an aside here, say what Mitchell told Ramsey, Ramsey told me, and I put in a memo to the President. He talked to Mitchell on another matter, and Mitchell said, "By the way, Ramsey, I talked to Dick about what you told me earlier about those judgeships,"--and I remember when Ramsey reported to me I thought it was a little strange that even though Mr. Mitchell and Mr. Nixon had been law partners that apparently in

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Mr. Mitchell's eyes Mr. Nixon had not yet assumed the aura of the Presidency because he was still calling him Dick--

F: He still was just a law partner.

T: Right. "I talked to Dick about what you told me about earlier, and he said that he wanted me to tell you to tell the President that he, Dick, fully understood why the President was making the nominations to those particular judgeships. He thought the President was right, and that he wanted the President to know that when he became President, he would not withdraw those nominations." Mitchell said, "I told him that that was not a commitment that he had to make, that it was not necessary for him to make that commitment to leave the nominations in. Dick said that he knew that that was not a commitment he had to make; that it was not necessary for him to make that commitment to leave the nominations in. Dick said that he knew that that was not a commitment he had to make, but it was one that he wanted to make. He wanted President Johnson to know that he was making that commitment." Ramsey reported to me that, and he said, "I think this is great news," because we had been concerned that they might be withdrawn, and it was the reason for--

F: Kind of a midnight judge's attack on--

T: Right. Which was the reason for advising him ahead of time, although we had not solicited that commitment. I wrote that in a memo to the President, and I scribbled it down kind of fast on a note when Ramsey told me, and Ramsey called me immediately upon hanging up with Mitchell. Now, I might say that the reason Ramsey didn't call the President directly-- it seems to me like it was four or four-thirty in the afternoon and at the time when the President was taking his nap--and that's the reason that I

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was putting it in to memo form so he'd have it when he got up. I put it in a memorandum and sent it over to the President, and the President was pleased about it.

Obviously you know from later history that the nominations were not confirmed. They were still pending when President Nixon came in. He did withdraw them.

In late January of '69 or early February after the nominations were withdrawn, we were back down here in Texas and Ramsey was still in Washington. Ramsey got into an exchange with the news media about those nominations and accused President Nixon of backing down on a commitment; and said that President Nixon had made a commitment not to withdraw those nominations, and now for political purposes to take care of political patronage he was withdrawing them even though the men were qualified--all the men appointed, I think and one woman, as a matter of fact--were qualified. President Nixon said he made no commitment, and that if Ramsey was suggesting that the commitment was made through Mr. Mitchell, that Mr. Mitchell was not Attorney General when this commitment supposedly was made and had no authority to make a commitment; and he, President Nixon, was satisfied that Mr. Mitchell had made no commitment and that he, the President, had made no commitment.

When all of this occurred Ramsey called me here in Austin, and said, "I don't have any records of that precise conversation except my own memory; but I have a recollection that you made a memo about it."

I said, "I have that same recollection."

He said, "Can you find it and give me a copy of that memo?"

I said, "Ramsey, the original obviously is in the President's files."

I think I've got a copy of it," as I kept some copies of some of my memos. I wish I'd kept all of them, but I didn't. But I said, "You'll have to check with the President."

He said, "Well, I don't want to get the President involved in this; I don't think it's fair. He needs to have a continuing relationship with President Nixon. But I do think this is important, and I'd like to have it."

I said, "Well, you know, this inevitably gets the President involved because it's a memo to the President. And it gets me involved. I don't mind being involved, but if this is going to happen, I'm not going to give you a copy of the memo unless you get clearance from the President--President Johnson." I did retrieve the memo. I did check and my recollection of it was exactly precisely correct, as Ramsey's was. The memo was there. I had the copy and the President has the original. And Ramsey--the furor and dispute died without his ever contacting the President and asking to get a copy of the memo. So I still have the copy of the memo and it never did go up.

F: Ramsey probably decided it opened up too much of other things.

T: I think that may be right.

F: What about the Texas judgeships?

T: There was a judgeship opened--a newly created one--for the 5th Circuit, United States Court of Appeals for the 5th Circuit. As a matter of fact, there were two. And based on--there were about six or seven states in the 5th Circuit--and based on both population and case load, it was clear that Texas was entitled to one of them. This is the way you made--if you got several states in a particular circuit, you try to divide

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it based on the workload that comes from a particular state as well as its population, which are pretty much the same. So there was to be a Texas judgeship.

There were all sorts of problems around then. There still was an old problem between Senator Yarborough and President Johnson that went back to their days in the Senate. I know that from what I read, and I wasn't there then, that apparently in early '61 and '62 that Vice President Johnson wanted to have some say about Texas judgeships and Senator Yarborough thought he ought to have the only say about Texas judgeships, and that was a problem that apparently went on into late '63 and '64 when Lyndon Johnson became President. So there was the problem about this one.

One of the things that I was just thinking, this doesn't come well from a fellow who worked for John Connally in light of the Connally-Yarborough dispute--one of the things that always was a kind of source of irritation to me is that Senator Yarborough dealt a little bit differently than some of the other Senators. Some of the Senators did this, and that is that anybody that was one of his friends that wanted to be a judge, he would write a letter of recommendation on them and send them a copy, very strongly recommending his dear friend. Then he would call and say, "Well, I don't really mean it. My real choice--". He might do that for for five or six people, and he'd say, "My real choice is Joe Smith." So even if the President went ahead and nominated Joe Smith, then all these other four, they'd say, "Well, by gosh, my friend Ralph Yarborough stood by me, but the President let me down,"--that sort of thing. That didn't impress me as being a very good way to play the game. As I say, because

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of my background with John Connally that doesn't sound very good coming from me. But anyway, that is one of the things that transpired.

F: You're subject to the charge of bias.

T: That's right, and I confess bias. In any event, there were all sorts of things that went through the Texas judgeship. There were earlier judgeships where the President and Senator Yarborough just, in effect, divided them. For example, the President wanted to nominate Hal Woodward to be United States District Judge for the Western District of Texas, which he did. Yarborough then wanted to recommend his man Wayne Justice, who was then U. S. Attorney, to be United States District Judge for the Eastern District of Texas. That was sort of a swap-out. That doesn't sound very well, but that's what it was.

With regard to the Texas judgeship, Ramsey worked with Senator Yarborough and worked with him, and just could not get him to come around with anybody. There was one point when Paige Keeton was being considered. Page Keeton was considered by the way, very prominently, and was very well thought of.

F: I'd heard the rumor and was hoping it would come through.

T: I'm very fond of Dean Keeton and I was hoping so also, but he had an age-factor against him.

Then it got into a situation where, for some strange reason that I'll never know and never understand, Ed Clark decided he wanted to be a Federal Judge. As you and I know, Ed Clark--I can't imagine him wanting to be a judge, but he did. So there were a lot of conversations. Ed Clark, at that time was Commissioner General of Hemisfair. There were a lot of conversations relative to Mr. Clark. I've forgotten what the age

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factor was.

Let me see if I remember. The way the ABA committee had it for recommendation was this: they put in a rule after Sarah Hughes got appointed. They got forced, they thought, into making a recommendation of Sarah Hughes when in fact they really thought she was well qualified but a little too old. They didn't have any question about her qualification or ability except one of age.

F: I think she was sixty-one when she was appointed.

T: Right. They didn't think that somebody over sixty really ought to be appointed. So they put in a rule that when something like this--I told you about the three categories, "Qualified," "Well-qualified," "exceptionally well-qualified,"--they said that for anybody over sixty, between sixty and sixty-three, that in order to get a "qualified," it would have to be somebody who otherwise would be "well-qualified." The "well-qualified" became "qualified." In order to be "Well-qualified," you had to be "exceptionally well-qualified." So they really eliminated the "exceptionally well-qualified," and just moved the two categories up to "qualified" and "Well-qualified." Then they said that if you're over sixty-three, that under no circumstances will you get any kind of a qualification.

Well, my recollection is that Ed Clark was sixty-two or sixty-two-and-a-half--he was right under the sixty-three but he was almost sixty-three. That was another problem. Well, he wanted to be judge, and it was a multitude of problems around that judgeship because Ed Clark had helped Senator Yarborough as financial manager in '64 at a key time when Senator Yarborough needed him. While nobody questioned Ed Clark's ability--as he has demonstrated around Austin for many years--there was some question

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about his legal experience. He hadn't really been trying law suits, and the ABA committee puts great store in trial of lawsuits. An officer lawyer who does all sorts of office work but doesn't really try lawsuits, they've got some question about.

The Senator really wanted to be for Ed Clark, but he also wanted to be for his friend out in the western district of Texas that had been his college roommate, that he had gotten appointed district judge out in El Paso--I'll think of his name in just a minute. He wanted to be for that fellow, and there was some discussion about maybe taking a man like Adrian Spears, who was Federal District Judge in San Antonio--a very able judge--and moving him to the 5th Circuit and putting a man like Mr. Morgan, who is U. S. Attorney for this western district, in the district judgeship. Then there was some discussion, or suggestion, about putting maybe a man like Adrian Spears on the 5th Circuit and putting Ed Clark in as District Judge down there. Ed Clark wanted either one.

F: He just wanted to be Judge Clark.

T: That's right. Then there were obviously other people who were interested. There were a lot of other people interested in that 5th Circuit, or in a district judgeship. But the interesting thing is not just the names that came to the fore. It was interesting to me about Ed Clark wanting the judgeship. Ed Clark, I think never really fully understood, and maybe blamed me a little bit because he didn't get it, but he never really understood that the biggest impediment that he had was age--sheerly age. He finally worked things around to where he got Senator Tower to support him, and he was going to get the ABA recommendation--that he was going to get a "qualified" recommendation of some sort.

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In any event because of sheer foot-dragging, of being indecisive and not being able to make up his mind--as it turned out, the President was very, very interested in getting a judge appointed down here; Yarborough was very interested in getting a judge appointed down here. Obviously, Senator Tower wasn't equally as interested because he looked upon it as his patronage appointment after January. But I think there were some judges who could have been confirmed toward the end of the year. I think maybe because of indecisiveness on Senator Yarborough's part and sort of changing his mind--he'd be for somebody and then he'd be for somebody else--that thing went by the boards. I remember it was a source of disappointment to the President because by being from Texas, he wanted to make this last Texas judge appointment. It just never was made. We left it and a man in Houston was appointed--a District Judge was appointed to the Court of Appeals.

F: To get off that subject just a minute, last time you said that the President said to you on two occasions that he had one thing he wanted to do when he was no longer President and came back to Austin. I wonder if you could repeat that.

T: Right. I don't really remember the context.

F: It was in no context; we were just visiting.

T: I don't remember the context in which it was said even. But I remember that we were just talking about the transition and coming back to Austin and what he was going to do once he got down here. And on two occasions, he told me that the very first thing that he wanted to do when he got back to Austin was to look Walter Jenkins up and go see him and just throw his arms around him and hug him. Now, I believe those are almost the precise

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words that he said on two different occasions. He went on to say that Walter Jenkins had been as dear a friend working for him as he ever had, and had been as loyal a servant as he ever had; and that he felt some responsibility for Walter because, with the problems that Walter had, Walter really got publicly castigated and was in the public spotlight because he was working for Lyndon Johnson. He said that Walter had been a real man throughout the whole thing and had not tried to shift any blame for his problem to anybody else; and that he, the President, dearly loved Walter Jenkins, and was as fond of him as a brother; and he just wanted to come back and just put his arms around him and hug him.

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GENERAL SERVICES ADMINISTRATION
NATIONAL ARCHIVES AND RECORDS SERVICE

Gift of Personal Statement

By Larry Temple

to the

Lyndon Baines Johnson Library

In accordance with Sec. 507 of the Federal Property and Administrative Services Act of 1949, as amended (44 U.S.C. 397) and regulations issued thereunder (41 CFR 101-10), I, _____, hereinafter referred to as the donor, hereby give, donate, and convey to the United States of America for eventual deposit in the proposed Lyndon Baines Johnson Library, and for administration therein by the authorities thereof, a tape and transcript of a personal statement approved by me and prepared for the purpose of deposit in the Lyndon Baines Johnson Library. The gift of this material is made subject to the following terms and conditions:

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Accepted

Date

Larry Temple
January 5, 1971
Darryl J. Madison for
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DEC 9, 1971