

INTERVIEW II

DATE: August 1, 1984
INTERVIEWEE: PHILLIP TOCKER
INTERVIEWER: Lewis L. Gould
PLACE: The LBJ Library, Austin, Texas

Tape 1 of 1

G: This is the second interview with Mr. Phillip Tocker. When we changed tapes in our previous interview, we were at the White House Conference on Natural Beauty in late May of 1965 and you had been describing sitting in Bill Moyers' office, watching through the window President Johnson reporting to the delegates at the natural beauty conference. At that point he was telling them that the bill that would be sent up about highway beautification would reflect the agreements that had been reached between you and Mr. Moyers, you on behalf of the outdoor advertising industry. I think in the conversation that wasn't recorded I had said that at that point the proponents of highway beautification who had been attending the conference felt that this was not what they had advocated and not what they wanted, and there was some discontent on their part. Do you remember any of that?

T: Oh, that's correct. They were, to put it mildly, somewhat shocked by the President's information given to them with reference to excluding from absolute prohibition outdoor advertising structures located in commercial areas, because the majority vote of the panel that had acted on the subject and had forwarded its recommendations to the full conference did not contain any such exclusion. They were not only

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shocked but they were adamant and in effect threw up their hands in reference to any further support of the beautification legislation.

G: And that discontent or dislike that they felt with the situation I guess obtained through the rest of the summer, and it affected their view of the bill from that point on. But as far as you and the administration were concerned, the next several months, June, July and August 1965, proceed on the basis of the understandings that you reached in the spring of 1965.

T: That's correct.

G: You testified and issued statements to the various congressional committees that met to consider the highway beautification legislation in the summer of 1965.

T: That is correct. I testified before the Senate committee on August 11, 1965 supporting the measure that had been offered by the administration for the committee's consideration. My statement--direct, unequivocal statement--was to the effect that the board of directors of our association supported the proposed legislation titled S 2084. I added that one reason for our support of this legislation was that it recognized outdoor advertising as a business use of land, and it did not and would not impair or restrict the use of our facilities and our capacity as a medium to provide market coverage for the producer of goods and services, and therefore the association supported the administration measure.

But we did reserve the right, contrary to the opposition of the administration, to press for compensation for those structures that

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had been lawfully erected and that would have to be removed under the provisions of the bill. I should add that the members of our association whose business was predominately in the commercially-zoned areas would have benefited to a very small extent in compensation because their structures would not have been subject to removal to the extent that those structures located outside commercial areas or in unzoned areas that were not of a business nature would have to be removed.

G: Before we turn to the attitudes within the outdoor advertising industry, there are some other people I want to ask you about. During the summer of 1965 you were getting letters from Alan Boyd and from Bill Moyers that led you to believe that, as far as you were concerned, everything was on track and that you were part of, if not the administration's team, at least part of the program that was still going forward regarding the handling of the bill and the agreements that had been reached. I think I've got--

T: That's correct.

G: --the copy that you gave me of the letter that you received from Alan Boyd I guess dated August 23, 1965.

T: The administration, as represented by Mr. Alan Boyd, who was then under secretary of commerce for transportation and subsequently became secretary for transportation, and Mr. [John] Connor, who was secretary of commerce, and members of the White House staff, they expressed their appreciation for our position, and they expressed to me in writing and verbally that our position and our support of the measure was deeply appreciated. In addition, Mr. Moyers said the President had suggested

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to him that I be requested to address a letter to every member of the House and the Senate outlining our support of the bill as it was reported out by the committee, which I did. The committee reported the measure to the Senate and no action was being taken in the House pending the resolution of the measure by the Senate. The debate in the Senate began approximately the middle of September in 1965.

G: So things are going along toward Labor Day or thereabouts in 1965. Somewhere in the period September 7 to 10, however, 1965, the situation from your point of view changes dramatically.

T: It changed the evening before the debate began in the Senate, and only then did we have any information to the effect that the agreement that we had made and the bill that we had supported and the bill that had been reported out of the Senate committee was going to be amended by offerings of Senator [Jennings] Randolph at the request of the administration, the exact nature of which we did not have determined for us until the amendments were actually offered on the floor of the Senate.

G: Do you remember or can you reconstruct what your feelings were when you heard about all this?

T: Well, we felt completely betrayed and I might add somewhat helpless, because our views with reference to those amendments had not been communicated to anybody, any member of the Senate, that we felt might exercise some privileges in discussing them and pointing out how they were harmful to the industry. We felt almost helpless, but we did what we could.

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G: Do you remember at the time what you thought about why this was occurring? You may have had feelings or conclusions later, but at the time what was your sense of why the administration had changed its position as you understood it?

T: To the best of my recollection, about the time we found out of the proposed amendments, or shortly thereafter, we were--our information was based principally on a rumor to the effect that there had been a meeting at Lake Jackson Hole, Wyoming, chaired by Mr. Laurance Rockefeller, which we understood or were told Mrs. Johnson attended, at which time she was apparently informed that the bill agreed upon, even though plenty of notice and time had been given through the Senate hearings on the subject, was harmful to the interests of the environmentalists. And that's the only information we ever had on it. I never received any explanation, direct or indirect, from those members of the White House staff with whom I had negotiated for many months. Consequently we immediately abandoned any further contact with them and concentrated on trying to convey our story to members of the Senate so that they could consider our requested changes on the floor of the Senate.

G: Did you have any conversations with Bill Moyers after this change had occurred?

T: Yes, I remember one very specifically. I had drafted a letter to my members submitting my resignation and giving as the reason for it the fact that I had led them down a path. I remember making reference to the Pied Piper. That I had been in effect betrayed and therefore I

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felt that I should no longer represent them. I took that letter, or a copy of it, to Mr. Moyers in his office. I requested [that I be accompanied by] a representative of Metromedia, which was one of the companies in the business, Mr. Mark Ivans, who later became ambassador to Finland and is presently I think ambassador to Norway under the name Austad, A-U-S-T-A-D. I wanted a witness. I showed Mr. Moyers the letter I was going to send off to my members. He read it and his comment, as I recall it, somewhat jocular, was, "Oh, you don't want to send this, Phil." And I was quite earnest about it, and that was about all the contact I had with Mr. Moyers or any other member of the administration after that until the bill that was finally amended in the House, accepted by the Senate and signed by the President became law. I did receive a telegraphic invitation from Mr. Lawrence O'Brien, who was then on the President's staff, inviting me to the signing ceremony at the White House, but I did not attend.

G: Before we get back to the legislative history of this problem, that wasn't the end of your encounters, I guess that's one way of putting it, with Mr. Moyers. He mentions you in a book of his, Listening to America, I believe. I don't know whether you wanted to comment on that just a bit.

T: Well, I was more amused than I was hurt by a reference he made in his book, Listening to America, to particularly oil company on-premise signs--the kind you see along the highway, Exxon, Texaco, Mobil--in which he said that if it had not been for the lobbying efforts of myself and others there could have been a law that wouldn't have

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compelled him to see those signs as he drove along the highway, but instead he could see my smiling face in all of them as he looked at them. I think he knew better because from the very beginning there was no thought of doing anything but completely excluding from controls of the [Highway] Beautification Act any so-called on-premise signs. Because I think as I pointed out earlier, there are thousands of those to every one off-premise sign, and they knew that they never could undertake to enact any legislation to exercise any control over these so-called signs that advertise the product sold on the premises or the services performed on the premises, which we usually call business identification signs.

G: That would have rallied against them literally almost every business in the United States. They would never have been able to pass it.

T: That's correct. I don't know why, but I think next to a businessman's wife the proudest possession or the most admirable possession he has is the sign on his storefront. I have seen men step out the front door of their business and look up at their beautiful neon sign without any realization that if he stepped three feet back, he'd find it was blocked entirely by the one next to him. (Laughter)

G: Now, the administration in the fall of 1965 does, despite your efforts, get through the Highway Beautification Act. Before I turn to the question of the language in the act that would later become so central to subsequent efforts to administer it, did you have other evidence or perceptions about Mrs. Johnson's influence or participation in the

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bill, or a sense of what it meant to her at the time, that you were aware of?

T: Really not. I don't know what influence she exercised on members of the White House staff or the members of the administration who labored so assiduously for the bill, but as to any personal contacts with her or confrontations--

G: Oh, no, I know. Do you have a sense, though, she was calling congressmen or participating in the lobbying efforts?

T: I don't recall. I was aware that a lot of people close to her were doing so, particularly people like Liz Carpenter and others.

G: Did the change of administration's view have any impact on your sense or perceptions of President Johnson or the presidency or how a president--?

T: Well, I must tell you frankly in answer to that that I felt that he had broken an agreement. I found it difficult to understand how the President of the United States could do that, particularly without even notifying us. Now, the extent to which he personally involved himself in that episode I don't know. It may have been that everything that was done in complete disregard of our agreement were acts on the part of his staff, who felt that this was what he wanted. But I felt betrayed, I felt that we had been used, and I made that clear to Mr. Moyers when I had the conversation with him that I just referred to.

Subsequently several months later, still smarting from that action, although we corrected it in the House, I was told by a very

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prominent gentleman in Washington that I would understand it if I could only come to believe what he believed was a fact, that if the President of the United States considered it to be in the best interests of the people of this country, he was justified in lying and cheating and even murdering. And I guess that's the only way I can accept what he did in this instance.

G: In the efforts to gain back some of what the association and yourself had perceived had been lost in this legislative process, you endeavored to get some changes in language into the bill on the House side.

T: Well, we tried on the Senate--

G: On the Senate side and then on the House side--

T: --and we failed in the Senate by a close vote. As I recall it, the vote on the crucial issues was about 47 to 44 against it, whereupon we had to devise the strategy we were going to employ in the House. You will recall that what we objected to was the effect of the amendments that were offered by the administration and accepted by the Senate that would in effect have made the agreements between each individual state and the federal government regarding size, lighting and spacing of structures permitted in commercially-zoned areas to be determined or be subject to the approval of the secretary of commerce, and likewise as to the definition of an unzoned area, not to be determined by the state but to be determined by an agreement between the state [and the federal government] subject to the approval of the secretary of commerce. We felt that the effect of the amendments was to make the secretary of commerce, the then-administrator of the law, a virtual

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czar as to the erection and maintenance of each and every sign in every market in the country. When we made our determination on strategy, it was influenced by the fact that the Secretary, by way of assurances to the senators during the debate on the bill, stated in a letter that he would, in exercising his discretion, approve standards that were consistent with customary use in the business.

G: This is Secretary John T. Connor?

T: That's right.

One other point here parenthetically: we did not want the secretary of commerce to have the authority to set standards as to size, lighting and spacing. We were agreeable to a meeting of the minds on the part of the state, on the one hand, and the secretary [on] the other as to what should be the size, lighting and spacing [standards]. So finding ourselves with a defeat in the Senate and an overwhelming Democratic majority in the House that could be persuaded and counted on by the administration, we decided that we would request the House to put into the language of the law the language used by the Secretary to the effect that lighting, spacing and size consistent with customary use would be permitted by agreement between the state and the secretary. That was the net effect of the amendment that we finally were able to get offered on the floor of the House, because we were unsuccessful in getting the House committee to adopt our view.

G: Can you recall who your major allies in this effort in the House were?

T: Yes, our major allies in the House were Congressman [James Russell] Tuten of Georgia, who introduced the amendment, and Congressman Jim

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Wright of Texas who was the co-manager on the floor of the House of the beautification bill. And in support of the amendment [he] did something that I considered an act of courage and which is highly unusual in that he separated himself from his co-manager, Congressman Ed Edmondson of Oklahoma, went to the well of the House and spoke in support of the amendment which the other co-manager of that bill refused to accept. And on a vote--it was a teller vote, I think--the amendment prevailed and we therefore had a House bill significantly different than the Senate bill. The issue then became whether or not the bill would go back to the Senate and result in a conference committee or whether the Senate would accept the House amendments. I think, after surveying the situation very carefully, we got the word that the President was willing to have the Senate accept the House amendment and it became law.

G: Did you have a sense or see members of the White House staff lobbying on behalf of the bill near the House and Senate floor? Was this a--

T: Oh! Oh, we ran into them.

G: --dynamic legislative struggle?

T: We ran into them constantly where they were huddling with members of the committee. And if you will permit me, I would like to read an excerpt from a minority report of the House committee characterizing the efforts of the administration and the White House staff.

G: We'll just pause a second while you find that.

(Interruption)

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T: The minority views on S 2084, the bill as passed by the Senate, of the House Committee on Public Works observes, and I quote, "We support the concept of beautifying areas adjacent to the highways, but we are opposed to the enactment of this bill in its present form for three basic reasons. It is not the product of careful, independent congressional deliberation. Instead it is a poorly thought out proposal which was brutally forced upon the Committee on Public Works by spokesmen for the administration who wielded the power and influence of the White House to an extent which we have never before seen, to make certain that the bill be reported and reported now regardless of the consequences. The bill is replete with unworkable, unwise and unfair provisions insisted upon by spokesmen for the administration who did not know and probably did not care about the many ramifications and adverse impacts of such provisions," unquote.

I submit that that is a rather striking indictment of those members of the White House staff who lobbied so intensely with the members of the House committee in getting the House committee to approve the legislation as it was passed by the Senate.

G: Now, the passage of the bill does not end the story of highway beautification in the Johnson Administration, because what impressed me in reading the hearings that go on in 1967 was that another struggle, another question, ensues, turning on the power of the secretary of commerce and I guess eventually the secretary of transportation--

T: That's right.

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G: --to whom these responsibilities are ultimately assigned in the reorganization of the administration that occurs in those years. Do you want to say something about the issue that was framed there and some of the personalities involved?

T: Yes. Despite the clear legislative history that the secretary had no authority to promulgate standards and that any criteria as to size, lighting and spacing in commercially-zoned areas would be determined by agreement between the state and the secretary, in preparation for hearings in each state on what was considered to be consistent with customary use in that particular state, the Secretary issued a set of standards. While he protested that the recitation of a standard or set of standards was for debating purposes only, or hearing purposes only, it was clear to us that they were determined to wind up after the hearings with just that set of standards. Whereupon I had a personal meeting with Secretary Boyd and I pointed out to him that if they proceeded with the issuance of those standards, we would do everything within our power to thwart the administration's efforts and we would fight to the bitter end. I urged him very strongly not to issue those standards.

G: Would this be in 1966, to your recollection?

T: It was after the enactment of the law, about a year later.

G: Yes. Sometime in 1966.

T: Yes. He felt that my concern was more fanciful than it was real and, sure enough, did exactly what we were afraid he would do, undertook to issue standards, and we maintained that he had no authority to do it.

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So we took our objections to the House Committee on Public Works which, after all, authorized the appropriations each year for the administration of that act. And for a long, long time, the committee by a substantial majority refused to authorize appropriations for the law so long as the Secretary of Transportation maintained that position.

G: One gets the sense from the hearings that both the congressmen and the senators who were involved in this were not at all pleased with what the Secretary was doing, that their view of what the legislative intent was was different from his. I mean, there is a testy, combative note about the hearings that runs through them.

T: That is correct. Because in effect what the Secretary was doing, and those who implemented the law under his jurisdiction, was to disregard absolutely the changes that were effected on the floor and the expressions contained as a matter of the legislative history and meaning of the various provisions of the act as though those amendments were never adopted and that language was never spoken. He proceeded to administer the law in the form in which it was passed by the Senate and not as it was subsequently amended by the House. Finally, as you know and as a matter of record, Secretary Boyd appeared before the House committee, expressed the view that they had probably been too zealous in their interpretation of and implementation of the law, apologized for their position, and therefore broke the logjam against the granting of authority for appropriations that had to be made biennially for the funds to administer the law.

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G: Did you have any sense of who in the Commerce Department or the Department of Transportation was the most committed to the law and to the interpretation that the Secretary was advancing? Was it Secretary Boyd, or were there others that were pushing him, as you would have viewed it?

T: Yes. I think it was the middle-level officials in the department's section that was set up to deal with the beautification act. I had the feeling that they were determined to interpret the law and administer it in a manner that they thought was compatible with what Mrs. Johnson and President Johnson wanted, regardless of what the provisions of the law were. That was the impression I had, because we had numerous meetings with them, and we seemed to make no impression whatsoever in urging them not [to] issue the standards as I finally urged Secretary Boyd not to.

G: I take it, in characterizing performance now and not personality, that Secretary Boyd's performance as a secretary, at least in the area that you knew about, was not of the highest quality. Would that be putting words in your mouth, or what was your impression of him as an administrator and as an implementer of policy?

T: I found him to be determined to implement the law in the manner in which he construed it and was not tolerant of any opposition, any opposing view, nor indeed tolerant of what was pointed out to him to be the exact language of the law. Whether he was acting on the information data and interpretation given to him by those under him-- and in all charity I would accept that view; I don't think Secretary

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Boyd, with all the problems he had being the first secretary of transportation, really focused as carefully as we would have liked for him to on what was being done to us which we felt was contrary to the law. I think he found it less resistant to accept the views expressed to him by his employees, to which we were not necessarily privy. For example, the then-general counsel of the Department of Commerce or of the particular section dealing with beautification--

G: Who was that?

T: Well, there were several, but I remember one in particular.

G: Robert Giles, was that--?

T: I think that name strikes a chord. Then there was a Dowell Anders and others; we went through a number of counsels. They just could not seem to understand what we were trying to say. But as I pointed out earlier, I think basically they were going to undertake to impose their views as they thought were in accordance with the desires and wishes of the President and Mrs. Johnson. I'm not taking the position that either the President or Mrs. Johnson ever communicated any views to them. Whether they were hoping to make points because they knew this was close to the President because of his wife's activities, or what, I don't know, but they were certainly determined to resist what we considered to be the plain language and effect of the language of the law.

G: I think we are getting close to a stopping point. I have two or three related points that have come up. Let me just deal with these couple of loose ends and then I'll ask one final question.

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A person that you worked with and that wrote Mr. Moyers several times in the early stages of shaping the bill was Donald Thomas, I think a lawyer in Austin at that time.

T: That's right.

G: I wonder if you might just say a word about his participation in the process of shaping the bill. I know it isn't on the first tape, but I remembered that I wanted to ask you about it this second time around.

T: Well, when we first heard of the President's desire to enact legislation dealing with outdoor advertising, we wanted to try to get our views before him. We had no direct line to the President. I was from Texas, and Ed Clark was a good friend of mine, and I knew that he had the President's ear at times and Mrs. Johnson's ear, because his firm represented the President and Mrs. Johnson. So I contacted Mr. Clark and asked him if his firm could represent us in getting a message to the President about what our position was. He accepted the employment and delegated it to Mr. Donald Thomas, who had telephone conversations or oral conversations with and I think wrote some letters to Bill Moyers and others advising them of our position in the matter. But that was the extent of his [involvement]. He did not appear for us at any hearings.

G: No, no, but there are some letters, and for future researchers who look at the letters and listen to this tape in the years ahead, I wanted to just touch on that so that was clear.

Another thing that impressed me, speaking about political figures, the roadside councils felt very strongly that Vice President Humphrey

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was very sympathetic to the outdoor advertising industry. One got a sense of that also in that he was one of the people that members of your industry went to see because they thought they would get a sympathetic hearing. Do I draw a correct impression about that from the--?

T: Well, your impression is correct and we thought we had a sympathetic ear, but I was absolutely astounded when, immediately after the passage of the bill in the Senate, in Life magazine there was a big picture of Senator Humphrey holding the V-for-victory sign with Larry O'Brien, delighted with the passage of the bill in the Senate after the very vigorous opposition we offered. So I guess we didn't have quite the sympathetic ear we thought we did. As a matter of fact, I was taken aback.

G: But until that time he had been a--

T: We thought.

G: --sympathetic ear.

T: That's right. Because very frankly, one of our important members from the state of Minnesota was the one that had the contact with Vice President Humphrey. I personally visited with the Vice President, a meeting arranged by our member in Minnesota, and outlined our position.

G: Would this have been Mr. Hartzell or--?

T: No, it was a Mr. Naegele.

I had the meeting with him in Washington in the Vice President's office and I honestly felt he was sympathetic to our position and would be helpful, and [I was] utterly amazed when I saw the Life

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magazine photograph and story in which he worked assiduously and vigorously to get the four-vote majority that they finally got to defeat us.

G: I raised the name of James Hartzell simply because there is a memo in the Alan Boyd papers where in August he was connected with the Roadside Business Association. They say that "our major opposition is concentrated in the organization known as the Roadside Business Association." This is in August. And for researchers also I just wanted to get your impressions or tell a little bit about Mr. Hartzell simply so they'll have something to go on.

T: I didn't know Mr. Hartzell, but I did know the attorney for the Roadside Business Association, the general counsel, Mr. Paul Spooner [?] of Minnesota, who has since passed away. But his organization was one completely separate from ours, and their members would have been more vitally affected by the act than our members, because their structures generally were in the rural areas and were not in commercially-zoned areas. But I must insist that our efforts for a payment of compensation, which I don't think would have been enacted were it not for our efforts, was more for the benefit of his membership than it was ours.

G: I wanted to make also sure that we got on tape--and I don't remember whether it's on the first tape--in the course of the White House natural beauty conference and other examples as we mentioned about Mr. Moyers, you sometimes were characterized in the press in less than flattering terms. I wanted to make sure that the statement that was

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made about you relative to the beauty conference, the newspaper headline, that you got a chance to talk about that because I know that was a sensitive matter. Through a newspaper headline they characterized you as the--

T: Beast at the beauty conference. Well, that wasn't the only example of unfair press reporting. Generally speaking, the press, TV and radio media supported the elimination of outdoor advertising. As we pointed out, it was a pure contest for the advertising dollar; they simply wanted to eliminate our share of it. It follows that if it was there and not given to us, it would be picked up by them. I thought they were manifestly unfair, with very, very few exceptions. And their editorial policies, particularly that of Scripps-Howard, were very--

G: And that was the chain that characterized you in that way?

T: That's right. I was constantly called by telephone for interviews or for observations or for statements. It got to the point where, [because] my replies were either misrepresented or mangled, that I finally refused to grant any more interviews over the telephone and would grant them only on a person-to-person basis. I further insisted on a condition that they would not agree to, that I see the printed article before it was published to see how they quoted me and if they quoted me correctly. The cartoons that appeared in the Washington papers, particularly by Herblock, always depicted me with a bowler hat and a big, fat cigar and a torso that wound halfway around the world, and always with my fist full of currency. It was brutal, it was brutal. I never want to be in a battle like that again.

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G: Before we quit, I just want to note that you have here on the table the original copy of the telegram from Larry O'Brien inviting you to attend the signing of the Highway Beautification Bill, an event, as you say, to which you did not go.

Are there any final comments that you would like to make about this walk down the corridors of power that you had in 1965 and the encounter with Johnson Administration, in retrospect?

T: I think I said earlier that I can't conceive of any item that is less deserving of federal concern than the erection and maintenance of a sign. I think it should be regulated, but I think it should be regulated by the locality in which it is located, because it is made up of the businesses that are served in that locality and they best know how to regulate them. I am appalled at the amount of public money that has been spent pursuant to this act, which should be a matter of public record. I think if careful inquiry was made, it can be determined that the vast majority of those funds were used for administrative purposes and not for the purpose of beautifying the highways. Finally, if the purpose of the law was to reduce the impact of signs on a motorist or on the environment, then I need only inquire of anybody within hearing distance, do you notice any difference? And I think the answer has to be there is no difference in the visual impact. That is not to say that the outdoor advertising industry has been blameless in all instances. My feeling about the members of the association, which I no longer represent, is that the business has been a lot kinder to them than they have been to the business.

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G: Well, I think that's an excellent place to stop, and thank you for
this interview, Mr. Tocker.

End of Tape 1 of 1 and Interview II

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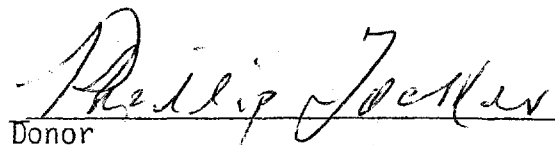
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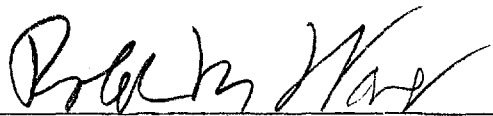
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