

INTERVIEW I

DATE: January 8, 1971
INTERVIEWEE: JERRE WILLIAMS
INTERVIEWER: JOE B. FRANTZ
PLACE: Professor Williams' office, Law Building, The University of Texas, Austin, Texas

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W: All right, you've asked me about when I first got to know the President. My in-laws knew the President very well because they're natives of Austin and they had many dealings with him and of course, I knew about him for this reason.

F: Their name is --

W: The Halls. Mr. and Mrs. Marvin Hall, because I married Mary Pearl Hall.

F: Right.

W: I've got to go one step further on that. In addition, through Mary Pearl originally, I met Horace and Mary Virginia Busby. And I was instrumental with George Hoffman and Horace Busby in forming the local Foreign Policy Club in Austin. So I sort of indirectly got to know about the President through Horace Busby, although I don't believe I ever met the President then. The first time I met him was when he had the Foreign Policy Club out to the Ranch.

F: Was this while he was still a senator?

W: That's right. Still a senator. It was after his heart attack, but I would say it was fairly close to the 1958 election, because I remember he was all wound up about somebody in the

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Republican Party calling him a spendthrift, and he was showing how he was a lot less a spendthrift than most people.

We went out at his invitation, my guess is, arranged by Horace Busby, to consult with him on foreign affairs. We got very little talking about foreign affairs done because he was all wound up in the election. And he gave us a most fascinating monologue virtually for a couple of hours about the whole political scene and his role and so on. I wouldn't have missed it for anything. We were sitting outdoors around the swimming pool.

F: Wound up with his educating you instead of your educating him.

W: That's right. Exactly. And I remember Walter Prescott Webb was there and the President seemed to be very captivated with him. After we talked a couple hours, we all got into the cars for a tour of the Ranch. I remember I was in the car that the President drove.

F: Was this in late afternoon?

W: Yes, late afternoon. I think it was a Sunday and I remember he had Walter Webb sit up in the front with him. It was one of these Volkswagen station wagons with the roof pulled back, and we went charging off across the prairie looking at the livestock. I remember Dr. Yeakey was also there. He was in our group. He's the anesthesiologist here, a Republican, and I can remember as we were racing around there with the President driving, he said something to the general effect that, gosh, for a man who's had a heart attack, he's just going like a wild man. This was a very

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interesting experience to me.

I remember the single thing that impressed me most in that whole meeting was Johnson's very careful statement of great admiration and respect and love for Franklin Roosevelt, because this was in the late fifties when you didn't talk about Franklin Roosevelt that way. The whole push was conservative and so on and yet he did that.

(Interruption)

F: We were talking about Franklin Roosevelt.

W: Right. And the fact that he would say these very honest and kind things and the tremendous respect that he had for him at a time when everybody was supposed to be pretty conservative and Roosevelt was not . . .

F: That's a dozen years ago, but do you recall whether he made any comment on President Eisenhower?

W: I don't believe he did, specifically. He was not attacking President Eisenhower at all. I forget who it was that was calling him a spendthrift, but it was somebody in the Congress. And he was very upset about that. That's about all I remember of that.

Now, I would see Horace Busby from time to time while I was in Washington when he was working for the President; Jim Wilson; Lloyd Hand. Jim came back here. So I felt I knew a lot of people that knew him, but that's the only personal contact I had had. The next time I saw him was just a month after the assassination.

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W: Jack McGuire had a group in on New Year's Eve at the Forty Acres Club, and the President came there that night. He stayed and chatted for half or three-quarters of an hour, and this was a very interesting, quite close personal chat. I don't remember very much about it. It was strictly on a non-business basis. But I remember the main thing we talked about was just the interesting things about the White House and how you keep it running.

F: This was his first trip back after he had become President.

W: That's right. Then came the invitation. I've got to think here a minute. I'm trying to give it to you chronologically.

F: Well, I know Mary Pearl got involved a little bit in the '64 election.

W: She was in the '64 election. Right. I'm trying to think whether the White House invitation was before or after; I'm sure it was after. Mary Pearl got involved very deeply. She was women's chairman.

F: For the state.

W: For the state of Texas. And she did a tremendous job.

F: How did she happen to get into that?

W: I think the word came from Washington; I don't know where. But she did. I forget who first approached her. You can find out.

She was down there and she worked and I remember during the campaign we were out at the Ranch once and the President was not there but Mrs. Johnson was for a social affair. Then there was another barbecue when the President was there, and we were out there,

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I think, twice. I'm wrong about that. The first time Mary Pearl was there, I was not. That's the woman's meeting. She made a speech.

F: I remember that.

W: It was in a New York paper. Well, then the other time was a barbecue and we were both there. That was during the campaign. The night of the election, we were in the Driskill [Hotel]. He came upstairs. I remember we were standing there and he shook hands with us, and I said to him that it was a great night for the country. And this was on national television because we all of a sudden heard about it from all over the country. I didn't know that the cameras were upstairs at all on the second floor, because that's where I was. And again, no particular contact.

Well, now, shortly after that, we were invited to the White House. I was already serving as chairman of the Southwest Regional Manpower Advisory Committee under the joint appointment of two Cabinet members: the Secretary of HEW and the Secretary of Labor. I'd been serving on that for about a year. The reason I recall that is because I was in Washington at a meeting in connection with that at the time Mary Pearl phoned me and said we had been invited to the White House. This was at the regular annual dinner for the Chief Justice, the Speaker and the Vice President. And the reason I'm emphasizing it is because that's when I really talked to the President for the first time.

So I never got back to Austin before the White House dinner. I bought a tux there and I went back to a meeting in Dallas and I

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then went right back to Washington. She joined me, and we were at the White House for that dinner. In the reception line, and I'm sure this is Horace Busby's doing, the President said to me, "When are you going back?" and called me by my first name. I said, "We're going back tomorrow afternoon." He said, "Well, I want to see you tomorrow morning." I said, "Fine."

So that morning we waited around the hotel and got no word; finally, I phoned Jack Valenti and told him what the problem was. Jack followed through; we got over there and waited a while. Both Mary Pearl and I walked into the office and as we did, John Macy was there. The president came up to me and said, "Jerre, are you a Republican?" I said, "No, sir. I'm a Democrat." He said, "well, you're from Colorado, aren't you? Weren't you a Republican back there?" I said, "No, sir. My father was a Democratic attorney general of Colorado, and I'd been a Democrat all my life." He said, "Oh, hell. I wanted to appoint you to the National Labor Relations Board as a Republican."

(Laughter)

F: That's one time being on the right side of politics did you in.

W: Yes. And then he said, "Well, Horace Busby said some good things about you and we're thinking about getting you to Washington." John Macy was still in there. And I said, "Well, Mr. President, that's very kind. I'm really not looking for anything, but I'm not closing my eyes to something, you might say." He turned to John Macy and said, "Do you want to ask him anything?" And John said, "What's your law school?" I said, "Columbia." He said, "Were you on the law review?" I said, "Yes." He said, "Well, that's fine."

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We don't have to worry then about those qualifications." And so then Macy left and there was someone else with him, I don't know who it was. I think it was some assistant from the Department of Defense, but I'm not sure. Then the President and Mary Pearl and I sat down and we just talked for a few minutes. He said he'd like to get us to Washington. I believe I recall that he said he thought Mary Pearl had done a fine job. I told him that I wasn't seeking anything and she said she wasn't seeking anything, but that we would consider it. And we left. That was the first time I ever even talked to him directly and personally.

Shortly thereafter, I got a call from John Macy saying, "Would you take the job as general counsel to the Army?" I said, "Let me think about it a couple of days, but I don't think so." I got back to him the next day and said, "I'm not interested." That ended all of it, seemingly, for a while. I just rocked along here very happy doing what I was doing.

Now these things: Do you want me to go on about how I got my job?

F: Yes.

W: Because they are directly involved with the President.

F: Right.

W: Then a very peculiar thing happened about the fairly early fall of 1966. What happened was one day at home I got a call from Jack McKenzie of the Washington Post who said, "I'm Jack McKenzie and you don't know me, but I understand you're to be the new chairman of the Administrative Conference of the United States and I just wanted to

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talk to you. When are you going to take over," and so on. And I said, "Jack, I don't know what you're talking about." He thought I was putting him on, I think. And he said, "Well, I understand it isn't announced yet." I said, "Look, I'm very serious. I don't have the slightest idea what you're talking about. No one has approached me. I know absolutely nothing about it." He said, "Well I guess my information is wrong." We parted amicably and I didn't think any more about it. Now that was almost a year before this thing came up. I didn't know what was going on up there. (Laughter) I'm telling you everything, you wanted to know everything.

F: Right. Right.

W: Okay. The next thing was, I was in Honolulu for the American Bar meeting in August or July; I think it was August of 1967. I was going to a Cornell Law School party, and Mary Pearl and I got on the elevator with Frank Wozencraft whom I knew only slightly because he was not a graduate of this law school, although I remember thinking at the moment that he was a graduate of this law school and I got that--

F: His father graduated from there.

W: Yes. Yes, I know.

And we said, "Hello," and he knew my name and he said, "I'd like to talk to you a minute." I said, "Fine." So he said, "Wait till we are at the party and we can get to one side." It was just a small Cornell reception and after we had been there a few minutes we walked over to one side. He said, "I would just like to know why

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you turned down the chairmanship of the Administrative Conference." And I said, "I don't know what you're talking about. I haven't had anything to do with the Administrative Conference. I hardly know what it is. I have vaguely heard of it, but no one has approached me about it." And I told him about this phone call from Jack McKenzie almost a year before. And he said, "Well, I understood it had been offered to you and you had turned it down. We need a chairman desperately there. I'd like to tell you a little bit about it." So then he told me about it. He said, "Would you at least consider it?" I said, "Yes. I'll at least consider it." I said, "I'm not looking for it. I'm happy; I'll at least consider it." So we left it that way.

In early September I got a call from John Macy saying, "Could you come up here tomorrow? We want to talk about this chairmanship." I did go up and talked to John and he sent me to Lee White, Frank Wozencraft, and I guess Ernie Goldstein was in the White House then. I'm not sure he was there yet.

F: Probably was.

W: I think he was.

F: Yes.

W: I think I talked to him. And Webb [Webster P.] Maxson who was sort of holding the fort in the Department of Justice. I remember starting out that morning thinking, "I'm not going to do this. I'm happy where I am." Somebody, and I can't remember who, I think it was Horace Busby, pulled this thing and he

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said, "Look, do you believe in the President?" "Yes." "Do you believe in his programs?" "Yes." "Do you believe in what he's doing in Vietnam?" "Yes." "Well, then what business have you got saying you won't come up here-because you're needed." And it kind of shook me, you know.

F: That's a hard one to answer, isn't it?

W: Yes. He said, "Guys are over there in Vietnam. They don't want to be there, but they're serving their country. How about you, if you're needed?" Well, by evening, I knew that I was kind of roped into this.

F: You hadn't seen the President?

W: I had not seen the President. The next morning, I called on the President for just a moment. He was terribly harrassed. I waited a long time. Marvin [Watson] just got me in for just a second. And all the President said was, "About this Administrative Conference thing, do you think you would be willing to do it?" And I said, "Mr. President, I've got to do some checking back home, but I think that I would be willing to do it. I'll get word up to John Macy in a day or two." He said, "Thank you very much." And that was all that was said. That was early September.

F: Had the school year started yet?

W: School year had not begun. It began in early September.

F: So you still had a little bit of time left.

W: I still had a little leeway. But it was right at it, school was to begin the next week. Oh, I remember I did say, "I talked to John

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Macy and I'll have to finish out this semester. I can get here as soon as possible and I can commute back and forth." And he said, "That would be all right." And John Macy had said, "Well, we'll get some funds to get you up here." And then there weren't any funds. I only got up there once in the fall and that was on ABA [American Bar Association] money for another meeting--meeting of this [the National Strikes in the Transportation Industries] Committee, by the way.

F: Yes.

W: So here I was back here. My name went to the Senate and I was confirmed without a hearing in about three days. And Frank explained this to me.

F: Frank Wozencraft?

W: Yes. The Administration was in trouble on this, as you may know. The statute was passed in 1964 and had not been implemented. And Bobby Kennedy was ready to make a blast; in fact, had made one. Frank told me that they were gravely concerned that they were really going to get after the President on this, and they needed somebody and needed somebody fast.

F: Did you get the feeling it had been held up just because of a lack of proper leadership?

W: I don't know why. Other people could tell you. John Macy could tell you. I couldn't tell you. I did understand that at least one or two other people were earlier considered for it. Walter Gellhorn being the main one who wouldn't take it. Ernie Goldstein told me that there had been a number of applicants with political

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axes to grind. It was just appalling, and that this was one of the problems.

F: I can imagine. Every lawyer on the make.

W: Yes. Yes. So this was part of the problem. I have said to two or three people in Washington like Ernie, "I wonder if maybe part of the holdup was because they needed somebody who wasn't in the administrative law field and already committed, but was near enough to it so that he was ready to step in." I never got a denial of that, but just sort of noncommittal answers. But something happened there. I don't know what happened but the most peculiar thing, of course, was this call from Jack McKenzie almost a year before.

F: Yes.

W: I never heard anything from anybody about it.

F: It was almost as if he had read the President's mind or something.

W: Yes. Well, I'm sure John Macy knew something about it.

F: Now, when you were out there in the fall, on your one trip, what was there? Anything?

W: Nothing. The Administrative Conference did not exist.

F: It didn't have a staff or anything?

W: No. It did not exist at all.

F: In other words, you had to put it together from scratch.

W: From absolute scratch. Now, let me give you a little bit of that background. There were two temporary experimental Administrative Conferences: one in President Eisenhower's first Administration in '54 and one in President Kennedy's Administration in '61-'62. Each

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of those lasted eighteen months. They were run by Judge Barrett Prettyman.

F: Who?

W: Barrett Prettyman, Judge of the U.S. Circuit Court [Senior Circuit Judge, Court of Appeals for the District of Columbia] there. They were both temporary and experimental. The second one, particularly, seemed to be rather successful, and it recommended that the office be made permanent, that the structure be made permanent.

F: Was the spiritual heritage of this the old Hoover Commission?

W: No. It was these temporary conferences. The Hoover Commission is more on government reorganization than it is on procedures. So that I would say that these were independent of that.

F: Yes.

W: The second one, the one that Kennedy called, was at the instance of Landis. You remember Jim Landis [former Dean of the Harvard Law School] consulted with Kennedy on administrative matters just before Kennedy came in. He suggested something like this. All right. The American Bar Association got behind it very strongly and legislation was passed in 1964. And I gather that a lot of people were getting rather impatient.

But that was the background of it.

F: Now Bob Kennedy was still attorney general then. Did he declare himself on it one way or another?

W: I don't know. I don't recall. But I do know that later he criticized the President for not having implemented it, later. And I gathered that Ed Long was either ready to, or people were ready to and he was conferring about it.

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F: You're talking about the senator from Missouri?

W: Yes. Because he was the chairman of that Senate subcommittee that handled this. Now it's Senator Ted Kennedy's subcommittee. The result is that, frankly, it was a little bit of a hot seat on this, too, because there were a lot of disgruntled people who were a little concerned about who was going to be appointed to this and what he was going to do. I must say I never really got any static from anybody. Everybody was completely cooperative. The Long subcommittee and the Senate Judiciary Committee, as I say, pushed through that confirmation without even calling me up there. I was disappointed. Normally you would testify.

F: I presume in something like this you need the support of your United States senators; or at least they didn't offer any objection.

W: I'm sure it was cleared with them.

F: Yes.

W: I'm sure it was cleared with them, at least Senator Yarborough. But I've known Senator Yarborough for years, and there wasn't any problem with him. Let's see if there's anything more about that aspect of it. Well, as I say, I was confirmed October 19 when I was still teaching down here. And there was no Conference. I remember that one meeting--

F: Was it funded?

W: No. No funds. Neither was it funded till long after we got organized.

F: You got a title and nothing else.

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W: We were really with nothing. And John Macy said, "Well, I'm sorry, but the budget squeeze is on." You may recall or you may have heard that in late 1967, President Johnson put on a very strong budget squeeze.

F: Yes. Right.

W: Well, it caught the Conference. I was to have some funding and I was to be able to get out there in the fall. We got nothing. And John Macy just said, "I can't help you on it." All right. The one visit up there, I interviewed John Cushman, who became my executive director, at the Mayflower Hotel one night.

F: Is he the F.C.C. man?

W: Yes. He's the son of the famous Robert Cushman who was a professor at Cornell in Government for so long. And I also interviewed and saw again Webb Maxson who became my executive secretary who was over in the Department of Justice. I talked to Frank Wozencraft very briefly, we talked budget matters; we worked out a budget. And that was my one visit and it was all set, and I arranged to go up there in early January.

I did go up there in early January, the first week after the first of January, I don't know the exact date, I was sworn in privately in Ernie Goldstein's office with the formal swearing-in to come later in the month. That's the way they do that; I'm sure you know. When I walked in that office, my executive director, John Cushman, and his secretary had been there for a couple of days. We were assigned quarters in that new Executive Office Building, where it still is, by General Services [Administration]. They

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loaned us some furniture.

F: The one down on 15th.

W: Yes. They loaned us the furniture. We still didn't have a dime. Now my pay began out of the contingency fund of the President. John Cushman's pay came out of the FCC; they continued to pay him on a loan. And that's the way we operated. All of our furniture was borrowed by the GSA, so we still didn't have a dime.

F: Real stepchild.

W: That's right. And we were in a couple of supplementals, and the first supplemental we were in was wiped out. It was, frankly, not until about June that we got money. We got a supplemental of about \$65,000, at which time we paid back the FCC and started to pay my salary and so on.

F: Temporarily felt wealthy, didn't you?

W: Yes. But it's an interesting organization; it doesn't take much money. But I spent a good part of that spring on budgetary problems. I never talked to or saw the President; now, indirectly, I contacted him. He appoints the members of the governing board, which is called the council; they are presidential appointees. I sent a suggested list of names over to him through John Macy. John Macy saw him at the Ranch late one day; it had been a very busy day and he was very tired, and John said, "I couldn't get any of your names out of the President." And I said, "Now, a couple of these are absolutely key names. If we can't appoint them, we're in real trouble." So I said, "I want to send them back through." He said,

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"Okay, write me a good strong letter," and I sent them back to him and had no trouble at all. They all went right on through.

F: Did you mix it up politically?

W: Yes. He did. I sent over a couple of Republican names.

F: Were they all lawyers?

W: All lawyers. Except Bill Deason. He put Bill Deason on. I didn't send Bill Deason's name over, but he was one of the government members. Now, I believe all the rest of them were lawyers.

The non-government people--there were five government and five non-government people on it--were all lawyers.

F: Did you ever have a charge from the White House, either directly from the President or one of his special assistants, or did you just follow the charges written into the legislation? How did you know what to do? Who told you what to do?

W: The legislation. And the council itself. All the lawyers knew what this was supposed to do and what it was supposed to be. And there was no specific charge at all.

F: And this was a term appointment.

W: Five years. That's another thing I forgot: when I talked to the President on that day very briefly, I said, "Mr. President, if I'm appointed I may not want to stay the full five year term. I don't want you to feel I'm committed to this." He said, "That's all right." [I said] "But I would like to come and get it going, get it under way, and then turn it over to somebody else."

F: I see.

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W: And he said, "That's all right." So actually, in my coming back in two years and nine months, I was right on schedule, right at what I'd planned to do. Now, I had no direct dealings with the President on the work of the Conference. My liaison man in the White House was Ernie Goldstein, and of course we're close friends, and we talked informally about a lot of things. But no direct word from the President at all. Now, that's that part of the story. What else are you interested in?

F: Well, I want to know what problems you ran into in the way of procedure, what sort of an operating method you had, and when your council met, how much actual advice did they give--in other words, how vital a group it was.

W: Let me just explain briefly what the Conference is, to start with, because it's an unusual agency. It is an independent agency; the statute pretty obviously contemplates that it be set up at the same level as a major independent regulatory agency, like the ICC and FCC and so on.

F: Basically, you're answerable to the President.

W: No, not any more than to the Congress or the Judicial Conference.

F: You're just free-floating.

W: We, by statute, are required to report to the President, to the Congress, the Judicial Conference, and to the agencies and departments themselves. So we're out in the middle, as an independent agency. It's a peculiar agency though; it's not regulatory; our job is to study the federal administrative procedures and make

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recommendations for their improvement. It operates very much like a legislative body. By statute, it has from seventy-five to ninety-one members, not a one of them are paid. Only the chairman is paid; and then, of course, his staff, his small staff. A majority of them, up to between sixty percent and two-thirds, must be government representatives from the various agencies and departments; for example, all the Cabinet members are made members, but they may send a delegate. The chairmen of the various regulatory commissions are members, and they may send delegates. Now, none of the Cabinet members maintain membership, but a high percentage of the chairmen of the independent regulatory agencies did; they, themselves, participated. Then a strong minority are private citizens, who by statute are required to be experts in the field of administrative law and procedure. And they're appointed by the chairman, with the approval of the council of ten. No requirements politically or anything else like that and I got what I thought was a very equitable mix, and it proved out later. I got four or five of the top academics; I got two former Cabinet members, one Democrat and one Republican.

F: Who were they?

W: Charles Brannan, former Secretary of Agriculture, and William Rogers, former Attorney General, who later again became Secretary of State and had to resign. Top practitioners; two former presidents of the American Bar Association; the current president of the American Bar Association as of that time--that sort of thing. And I paid no attention to their politics; I paid attention to their quality. And this came

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in great stead, because we had strong Democrats and strong Republicans.

F: You didn't ever have any council splits or other splits on partisan lines?

W: No, and as a matter of fact, on probably our most hotly contested issue, which was a recommendation to create a people's council to represent poor people, in agency rule-making situations, where we did have hot debate and close splits, a graduate student in American University decided to make a study to see how the people lined up, although we don't record votes. But he sent out a questionnaire, and I liked the answer that one of the Washington lawyers, Warner Gardner, who was chairman of one of our committees, wrote back. He said, "If you think that your evidence begins to reveal there was some pattern of voting, you are wrong. There was no pattern of voting." And they really did; they just voted their own convictions.

Now, the council of ten, in addition to me were appointed by the President, without Senate consent, for three-year terms. And we started with staggered terms. Most of the non-government people were the people I'd recommended, either first or second choice. I suppose, as it ultimately turned out, the two key appointments for that council were ones that I had to go back and fight for. And that was first, Walter Gellhorn of Columbia, who ran the original Attorney General's Committee on Administrative Procedures in the late 1930's. It was the dominant name in the area, and it would have seriously hurt us if he had not been on it. And Whitney

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Seymour, who was a former president of the American Bar Association, a Republican, a staunch Republican, and a close friend of mine. I put his name in as a second choice, frankly, in part because he didn't work in the administrative law area, and I had put in another prominent lawyer's name. As a matter of fact, I think it was Bill Gossett who later became president of the American Bar Association, who was also a Republican. But I personally would have much preferred Whitney, but I don't think that it would be acceptable, because of his very strong Republican credentials and so on. And, doggone it, if I didn't get Whitney. And this was a key appointment, because he was an absolute tower of strength throughout, especially when the Republicans came in.

F: The council worked, I gather?

W: They worked. Now, a lot of things were done by letter, but the council met at my call. And I would say while we had two conference sessions per year, the whole conference of eighty-two acting like a legislative body, we probably had four or five council meetings. I should say there was one other key appointment, and that was Harold Russell from Atlanta, Georgia, who was sort of the ABA man, in the sense that they asked for him, but he's no lackey of the ABA. We were close friends; we were in law school together, and he was also a tower of strength throughout.

F: I would gather, too, that the ABA hierarchy interest in this has not abated.

W: It has not abated, and they have been very helpful, and very concerned. One of the real problems of the chairman, and I questioned

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my successor about this the other day obviously, you have got to have the strong support of the ABA, or you are dead. But you cannot become a lackey of the ABA, because you're also going to be dead, because your job is one that's between the ABA, which consists of the lawyers representing people against the government, and the government agencies.

F: So the ABA is not your ultimate client in this.

W: That's right. Now, a high percentage of my time, unfortunately-- and I did not expect this at all--was spent on budgetary and monetary matters. That budgetary squeeze was on. We went before the House committee, in the early spring, for our budget of \$250,000 which was what the statute authorizes, which is too low, but it is what the statute authorizes. They cut us in two, to \$125,000 in the House. Now that was because they didn't think we were getting organized that fast. Well, I did what I learned very quickly in Washington you have to do. I got Charles Brannan to come up to Washington to appear before Mike Monroney's Senate subcommittee and write a letter to the House subcommittee, Congressman Steed's committee.

F: Congressman who?

W: Steed, Tom Steed from Oklahoma. And it was really a sight to see that Senate committee fall all over themselves when Charles Brannan walked in that room. Mike Monroney from Oklahoma and so on, and his Democratic Secretary of Agriculture. The same morning without Brennan,

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we appeared then before Congressman Steed's committee on our supplemental, he had received a letter from Charles Brannan. And he announced publicly that if the Senate restored, he would go along with it. And the Senate did restore it. So we finally got our money for that year.

We immediately started out then to get the ceiling raised. This is one of the things I knew had to be done. We preferred to get it taken off, but at least it had to be raised. We appeared before the Senate and House committees. We got the support of the Johnson Administration. It finally ended up with a bill to raise the ceiling to \$450,000.

And then it came before the Congress in the Nixon Administration the first spring. We had the backing of the Nixon Administration from the White House, we were told. We came on to the floor of the House late one afternoon when the House was mad after considering some veterans' bill. I was making a speech in Dallas. Congressman [Robert] Kastenmeier--it was his subcommittee, it was his bill--phoned my office that morning and said, "If you've got anybody that can help on the Hill, you better let them know. It's coming up this afternoon." I was reached as I stood up to speak in Dallas. I finished my speech; I called back to my office and I talked to Mary Pearl. We passed that bill in the House by four votes with most of the Republican leadership voting against it. They had not gotten the word from the White House. It was passed because Mary Pearl, who was in Washington working, got on the phone to Jake Pickle and said, "Look, this is our bill. Can you do something about it?" And she

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finally got through to Ed Morgan, our man in the White House and said, "Look, the Republican minority leader of that appropriations committee has made a speech against this thing, and we're going to lose this and I thought you were for it." He said, "Well, I can't do anything now." And Mary Pearl said, "You can. Jake Pickle is. You can call people off the floor and tell them to vote for it." Each of them say they reversed fifteen or twenty votes and we won by twelve votes, so we would have been dead ducks without that.

Now, the same bill then went through the Senate on voice vote unanimously. So that's how things work in Washington.

F: Right.

W: So we got our ceiling raised to \$450,000. Then we sent in our budget for \$410[000] and the Bureau of Budget cut it to \$385[000]. And we said that was all right; that's close enough; we weren't going to make any quarrel with them.

F: Did you have enough of an operating budget by now that you had an executive assistant who could look after [things] and see that the money was spent and didn't overspend?

W: That's right.

F: You were no longer burdened with that.

W: The executive director, John Cushman, and his secretary, Ruth Hartman, were handling that, and they did a very good job of it. We were having trouble because we still didn't have enough money. \$250[000] was not enough. So we got the \$380[000], out of the Bureau of the Budget and we thought, "Good. I'll accomplish most of

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what I want to accomplish without fighting the budgetary establishment. It is close enough.

Back the word came from the White House that we had been cut to \$175,000. Well, we really burned. But this was the Nixon Administration now.

F: Yes.

W: And I called the council together and Ed Morgan who's the White House man said, "Look. Things are getting tough over there." He said, "I'll fight to get you back to \$250[000] but not one cent more. I just can't do it." I understood that what happened was that they had brought in somebody from the Rand Corporation and said to him: "Look. Cut a bunch of these little things." And he just went through arbitrarily slashing. He's the guy that cut out the Tea Tasting Board, you know, that caused quite a flap.

F: Yes. Right.

W: Incidentally there's a very firm insight in there. One of the things I learned in Washington is you cannot cut the federal budget to any significant extent except in the Department of Defense or in space.

F: Right.

W: There really isn't any water in that budget. And I'm surprised that the Nixon Administration didn't know that because he'd been in Washington. But you can't. And he's gone through the very painful process of learning that, but you cannot do it.

Well, anyhow, appeal lies only directly to the President and Morgan said, "I'm going to try to get you back to \$250[000]." Well, that

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was not enough to do what I came to Washington for. And I was very mad at this point.

F: Yes.

W: Mary Pearl and I were talking at home one Sunday and I read in the papers that John Ehrlichman came from Seattle. I knew John Ehrlichman was a power in the White House. And I just casually said that he came from Seattle and I think she was the one that said, "Hey, don't you have a friend, a close friend, on the Conference from Seattle who's a Republican?" And I said, "Of course I do. I put Bob Graham on there. He's a great friend of mine. We were in law school together. He's a Republican through and through. I wonder if he knows John Ehrlichman?"

I phoned him the next day and I said, I was kind of inept, I said, "Bob, do you know John Ehrlichman?" There was quite a pause. And he said, "You know him, I know him." And I said, "Well, look. It's about the budget of the Administrative Conference." And he said, "Oh, yes, I know him very well," because he backed the Administrative Conference. I told him what had happened. And Bob Graham who had come to feel the Conference was a great thing--I had to persuade him to come on, but he was the first man that came to me and said, "I want to be put back on if I can"--was appalled that this had happened. And he said, "I not only know John Ehrlichman, but we're in some business deals together and we're very good friends. I write him once or twice a month telling him my views on various things. I don't try to call him because he's too busy, but I suggest he call me if he wants and he does once in a while."

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So I told him the story and he said, "Well, what do you want me to say?" One of the main problems we had run into was the criticism that our staff was very highly paid and it is. Because it is very small. John Cushman is a Grade 18, as high as you can get. And our executive secretary is Grade 17, supergrade. We had room for a Grade 16, a research director, but we had never been able to fill it because we never had the money. Then we had one staff attorney. So actually we had a top-heavy staff in that sense because it was small and we needed the top people. Well, Bob Graham knew this immediately and I told him about this problem and he said, "Well, that is an outrage and I'll say whatever you want." And I told him the things that I wanted in that letter. And he wrote a very strong letter to John Ehrlichman saying, "Now, look. You can talk all you want about economy, but you just can't do this to this body. There is no agency where the government is getting more for its money. It's getting millions of dollars worth of talent here for nothing."

Two days later we got word from the White House that we had been restored in full. One of the four agencies restored in full. Of course, that was the \$380,000. I kept telling Ed Morgan, "Look, you're spending more money trying to keep us from having this two hundred thousand dollars that we need. You're going to spend more keeping us from having it than it would cost you to give it to us." He said, "I know it. But that's the way the government works."

Well, the net result is that I ran an end run, frankly, around

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Ed Morgan who was on our council, appointed by the President, and who was our liaison. And from that moment on, I had serious relationship problems with him. He would never return phone calls. I just had to get along without him. And this is not good for such an agency to get along without the White House.

But I learned the strength of the agency and I had to use it again a couple of times. I learned the strength of the agency and that is that you have the very top people from both political parties in it and you can call on either side.

F: You've got somebody who can reach.

W: That's right. Now not long after that, one day, some young guy from the White House staff walked in while only my secretary was there and said, "Now, you're moving and we're going to move you to these offices over here." Some place over on the other side of the railroad tracks; it was out in southwest Washington. She said, "Well, we hadn't heard anything about it." And he said, "Well, the President said this building has to be cleared out and you're moving." So I came back from lunch and here was our problem: we were going to be moved. And we went over and looked over this place and for an agency that has Wall Street lawyers and such people coming in, it was absolutely unbelievable. It had been space used by draftsman in some agency or something, and it was that kind of space, right by the railroad tracks and that sort of stuff.

So there started another battle. And I had to start pulling wires with people like Whitney Seymour, had him right at the White

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House saying, "Don't do this." And finally we got the word;
"They're going to allow you to stay."

So we were able to fight some of those battles and it is because of the peculiar nature of the agency.

F: How did you fix your priorities on which procedures you were going to study?

W: Okay. All right. Here's the way the Conference itself operated. Every member of the Conference was put as a member of a standing committee and we set up ten standing committees. Those committees met and they decided what priorities, what they wanted to look into, with the approval of me and of the council.

F: How did the committees break down? Were they by area of interest?

W: Yes. Basically, although we just had to assign people. But, for example, we had a committee on personnel, a committee on agency organization and procedure, committee on claims adjudication, a committee on rule-making, a committee on judicial review, a committee on adjudicatory procedures, this sort of thing.

We very frankly told our committees at the beginning that we needed some projects that would bring us quick fruition because we had had to make some sort of record. And that we didn't have the money for major projects and we would just have to get going on some things that we could move along very rapidly on. And they did choose such things and we got going on them. We had very fruitful sessions and we passed significant recommendations at our very first session which

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took place--well, we had an organization session in June of 1968.

F: Yes.

W: But the first session with recommendations took place something like eleven months after I arrived in Washington, in December 1968. We adopted something like nine recommendations some of them highly significant. And then we had another session with more recommendations the next--well, we had to bypass because we ran out of money, and we had to wait almost a year for our next one, and that won't happen anymore.

So what happened was that these committees chose the subjects they would work on. Now, in addition, the chairman has the authority himself to decide to investigate certain things. After about almost a year and a half, when we had to bypass that session because we didn't have enough money and we didn't have enough projects to consider, the council appointed a subcommittee of which I was chairman, to study how we should become more vital and move more rapidly forward. And, frankly, the subcommittee decided we had been doing right and that we just hadn't had enough money, but they suggested the chairman use more of his power to set up investigations himself. So as soon as we got our next year's money, which of course came about six weeks after that, I set up a number of far-reaching projects myself.

I attached some of them to committees, but I did some of them just on our own in our staff. The way these projects operate: we hire a consultant who is typically a young law professor. By statute, we can pay him up to a hundred dollars a day. They're worth a lot

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more than that, but it's a professional opportunity for a lot of them and they're willing to do it. And indeed, my successor, Roger Crampton, A University of Michigan professor, was one of our original consultants. He was consultant for the committee on judicial review and did a very productive job. They make a study, a very thorough study; they write a thorough report; they then go into their committee with this and the committee goes over it, hones it, rewrites it. Then it comes to the council. The council can evaluate it, but cannot keep it from going to the floor if the committee wants to push it on. And in a sense, the council holds informal hearings. The members or the chairman of the committee or the consultant will appear before it and they will talk about their recommendation. The council will ask them questions, modifications will be suggested in their proposal, and they'll ask them if they will accept them and that sort of thing.

Then after that is done, it goes to the floor where it is debated just as if it were proposed legislation. Now, our recommendations that we adopted in the time I was there ran a very broad gamut. Just to pull up a couple of examples as they come to mind: we recommend the establishment of a consumer bulletin by the government which would be sort of a federal register written for laymen so that people in general could know what the government was doing about "are they holding a hearing about how many peanuts have to be in a jar of peanut butter" and this sort of thing.

This was picked up by the Administration and the President put it in his consumer message, and directed the Consumer Council to

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establish such a bulletin. It hadn't been established yet, but at least we got that far.

F: Well, now, to whom did you make this recommendation?

W: That recommendation was made to the President, because it was an executive recommendation that it be established.

F: Consumer affairs come under this. But you could send it to whatever department had pertinence.

W: We could send it wherever we wanted. That's right. Now the next recommendation, the one I referred to before, the poor people's counsel. This was a major recommendation. What we recommended was the setting up of what you might call a law firm for poor people in Washington to represent them in rule making. They're represented pretty well now in the adjudicatory cases that apply to them but not in rule making. This grew out in part of the discovery at the time of the Resurrection City and the Poor People's March on Washington, for example, that the food stamp plan has been set up in a way that really poor people couldn't participate in it because you had to have twenty-five dollars to buy the stamps in the first place. A lot of poor people never had twenty-five dollars at one time. Now that's rule making. That's not adjudication but that's a government rule. And they just hadn't effectively consulted the poor people about this problem.

That's just one example. Now this recommendation was directed to the agencies to set up means by which the poor people would be represented in rule making. You know, rule making is the legislation by the agencies, as it were. It has the same stature as legislation only it's

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done by the agency. But we also recommended to Congress that they enact a statute setting up a poor people's counsel. That statute has been introduced in Congress. It has not been enacted yet.

The committee on judicial review made some very significant recommendations on making it easier for people to challenge governmental and administrative action; for example, they recommended the elimination of the old sovereign immunity doctrine which we should have gotten rid of many years ago but we still haven't. Recommended the elimination of the difficulties of bringing suit against the government. You know, technically, you have to sue the officer, not the government. We recommended that be wiped out. We recommended jurisdictional amount requirements be wiped out. Those recommendations have all been introduced in Congress, and my guess is sooner or later they will pass.

F: You've got a lot of time of watching to see what comes into fruition, don't you?

W: That's right. Now on the other side, we began to get a lot of complaints about the Federal Aviation Agency and its handling of pilots and other flight personnel. And this was one of these things I turned one of my own staff attorneys loose on, and he got over there and he discovered that the FAA was holding a full, adversary, due process hearing in all flight discipline cases, pilots being disciplined or something, even though the statute requires that the National Transportation Safety Board do this and they were also giving a full hearing. In other words, there were two complete hearings in every case if the flight personnel asked for them. Now this is bad

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government. The FAA had just sort of developed their own in the hope that Congress would give them the authority to do it as opposed to the National Transportation Safety Board. But the statutory authority is in the National Transportation Safety Board. So we obviously made clear that we were going to recommend that that hearing, the second duplicate hearing, be eliminated.

And why didn't the FAA just eliminate it? Why did we have to go to the Conference to do this? Well, we found that there was a split within the FAA and the Department of Transportation itself. Some people thought they ought to get rid of it and others were going to fight for it, by golly. And the result is that we went to the stage of a formal recommendation and recommended that the hearing be eliminated and that's what the Transportation Department needed. They immediately proposed the rule making to eliminate the hearing and they have already done so. We saved the government some money, besides improving the process.

F: Yes.

W: Now on some other cases when we turned up something, we've gone to the agency, and they've just gone ahead and corrected it; we never even went to the floor of the Conference. For example, we made a study of-- it is a very narrow area, but it was brought up to us by Professor Kenneth Davis, who is a very prominent professor in Administrative Law at Chicago. The Department of Justice has the power to remit the forfeiture of an automobile which has been picked up because it was carrying contraband, typically liquor or dope or something like that. And, of course, usually it belongs to a finance company and often they will give it back, if it is felt they weren't negligent. This is

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supposedly in the discretion of the Attorney General, but it was actually being done by some guy in an office who was doing a very good job of it and who had developed very careful rules about it, but they were all unpublished. They were all in his head. He just did it: "Yes," "No," "Yes," "No." We made a study of this and called the attention of the Attorney General to the fact that this was going on and that there ought to be some guidance to these people; there were rules, so why not let them know? The Attorney General said, "Well, of course we'll do that." We never went to the floor of the Conference they just went ahead and did it. And so this is one of the functions of the Conference. It could act informally in this respect.

Another area of our action is on citizens' complaints. Now we're not ombudsmen, we can't cure the complaints; but in certain specialized sources, like in a Kiplinger Letter once, we actually solicited complaints about governmental procedures. Our purpose was to find out where the trouble spots were, and we made it quite clear that that's all we were concerned about.

F: Did you get response?

W: We did get some response. As you might expect, we still got a lot of response from people saying, "Cure my case." Now what we actually did in those cases was that we simply sent them over to the member of the Conference from that agency and said, "We have received this complaint. Obviously, you don't have to answer to us on it, but we thought you would want to know about it." And, in many instances, they actually took some action about it. That function did not develop significantly. It just sort of stayed at a very low level. It may develop at some

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time. But we didn't have the money to do more with it.

F: Is it your feeling that the Conference really has a function to perform that, in a sense, is everlasting; so long as you have a government, you have a need.

W: That's right. We will never cure the administrative procedural processes. In fact, the biggest job is to keep up with developments as fast as they're moving.

F: Right.

W: And I think the concept is better than one of these citizens advisory committees. I think the concept of actually pulling these government people and the top administrative lawyers together in a deliberative body to make official recommendations about improving these procedures is a fantastically effective and creative concept.

F: Did you have or encounter a departmental or an agency defensiveness whenever you dealt with some sort of procedure within a specific--

W: Very little. We did get some in the case I told you about on the FAA because they were split within the agency itself. I knew when I got there, because I was told, that there was a lot of concern among some of the agency people that we would be nosing around and calling them and causing them a lot of trouble. I'm inclined to think that, by and large, we dispelled that. We didn't operate that way. We operated openly.

I've had some agencies say to me, "I wish you would come over and do a job on us." And I'd have to say, "We don't have the money yet to do it. Maybe someday we can do it." There are still some people up there who resent it and who are worried about it,

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I'm quite sure. But we tried to build the kind of open record of top people that would tend to dispel their concern.

Now we saw some very effective evidences of how this can operate. We made a very significant recommendation about hearing examiners. We have in the federal government, a system of what's known as "selective certification." Certain agencies say, "We have to have hearing examiners who are trained in our particular kind of work, therefore, we only will take people whom we certify." The Civil Service Commission has gone along with that. This has meant almost entirely in those agencies that they are people who have come up through the staff of the agencies to become hearing examiners. Now the ABA and the lawyers resent this very much; they are bitterly opposed to the selective certification system. They say, "These guys are judges. We don't certify judges. There should be no selective certification."

We got through a recommendation for an experimental program, to avoid selective certification to be set up by the Civil Service Commission. It was very interesting to watch these independent agency people operate in that. They were very open and aboveboard. They expressed their concern. They voted against it, but they said, "We understand your concern." They asked that a couple of safeguards be written in which were voted upon, but it was a completely open and aboveboard operation. And none of them felt that anything was being crammed down their throats. They felt, and you could tell they felt, that they were being faced with a reality now with this body mixed up both of their people and of top lawyers throughout the United States,

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working on something that they were not going to be able to maintain totally. And they worked along with us in their own way, and it was really a very interesting experience to watch this happen.

F: Was there any difference as far as the Administrative Conference was concerned in working under one administration or the other? You did have the privilege of seeing it in two.

W: Yes. The only differences I would have to say first, Joe, that there is no question but what we got excellent cooperation out of the Republican administration. Much better than I expected. Now we undoubtedly had a lot of trouble because it was a new administration. I'm quite convinced that this thing where we almost lost that bill in the House was because it was a new administration--

F: It's ineptitude rather than--

W: They had not gotten their liaison worked out right. We had an awful time time getting appointments to the council out of the new administration and I think it's for the same reason. Frankly--and everybody in Washington knows it--the personnel program operated in the White House under the Nixon Administration has been very inept compared to the highly efficient operation that John Macy had. He ran a miraculous operation. You can't get things out of the White House and you can't get to the President. I say the cooperation is there because they did back our statute, and they did appoint this liaison man and in many ways, he was very helpful. He got mad at me when I ran that end run around him, but he was very helpful. But they worked in an atmosphere--for example, the first three months, two different men in the White House had been designated by liaison. And neither one of them knew, really,

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whether they were supposed to be, or whether the other one was supposed to be.

F: And you didn't know whom to call.

W: That's right. And you may recall that the President [Nixon]--and I cannot understand this from a man who was Vice President for eight years--announced that his White House staff was going to be generalists.

F: Yes.

W: They were not going to be assigned to particular areas. You cannot run that staff that way. You can't possibly. You've got to have these people assigned. And that's why I had this trouble. Now, they learned and finally they did start assigning them, and then I did have a liaison, and it was all right. The other member of the council that the President appointed, besides this White House man, Ed Morgan, was Dick van Dusen, who was Under Secretary of Housing and Urban Development under Romney, and he was absolutely first-rate. Just absolutely first-rate. Very cooperative. Although he is one in that council meeting that day that also gave in on the \$250[000] and said, "Look, we can't fight for any more than that."

F: Did President Johnson's March 31 speech saying he would not seek another term undercut your effectiveness at the time, or were you independent of that?

W: I would have to say that it did not undercut the effectiveness of the Administrative Conference, to any noticeable extent. It undercut my personal effectiveness a great deal, because I could see what

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was ahead, and a job which I already had come to see relied very heavily on close contacts with the White House wasn't going to have them any more. And as I say, I came out a lot better than I ever expected to on this, because I could use the Republicans on the Conference who were my good friends. But without them, it would've been a debacle up there, with the change of administration. But actually, no, I don't think there was, I can't think of any significant lame duck problem, except the normal budgetary problems which everybody was having. And we had those, in spades, but so did everybody else.

F: Did you finally resign because you just had devoted all the time you wanted to, or was there some specific reason for it.

W: No, that was the reason. When we finally got the budget restored and I'd gotten the ceiling raised, I had been there now a little over two years, and this was right on my schedule. I wrote the President a letter in March in which I submitted my resignation as of September 2nd, to give him plenty of time for a successor and a carry-through to the next general session and so on. And I thanked him for his cooperation, and I got a very fine letter back from him.

F: There wasn't any of this reputed White House pressure to replace Democrats with Republicans?

W: Not the slightest. There may have been some informal pressure from this man, Ed Morgan, in the fact that he made it a little hard for me because I couldn't get anything out of him; he wouldn't answer phone calls and so on. But I really don't think so, because all I'd done was establish that

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I had other ways to get things done in the White House.

F: Right.

W: And there was never any word about, "Why don't you get out" or anything like that; I think it's because I had too many top-ranking Republicans who were my good friends.

F: No feeling that you were running any sort of a Democratic contingency within a Republican administration.

W: No, no. Now, I was sensitive to the problem. When I came to appoint the public members of the Conference for the second two years, we established the principle of rotating half off to get to half-and-half rotation; and it was hard to rotate half of those people off, because they all wanted to serve four years. I sent out a private letter in which I said, "If you really don't want to serve, let me know, you know, we've got to cut." But I had to cut off fourteen that wanted to serve. I made a flat rule in my own mind: "I will not reappoint the Texas Democrats." That meant Emmette Redford had to go; it meant that Bullion up in Dallas had to go.

F: Waddy Bullion?

S: Yes. Jim Langdon had to go. You see, we had both Frank Wozencraft and Joe Kilgore on the council, and they were continuing, their terms were continuing. Frank's will run out next February. And Joe Kilgore still has another year or so to run. And I decided that "Well, I'm not going to throw things in their faces, and I'm going to do this." And I did. And my successor told me that Ed Morgan in the White House, when he talked to him about the job, said, "I assume you're going to get all those Texas Democrats out of the Conference." Well,

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I'd already done it, as a matter of fact.

F: Yes, I noticed that.

W: Because I believe in at least sensible cooperation on these things. Now, there's one other thing about the [Nixon] Administration that annoyed me. When I got into the budgetary squeeze on the Republicans, I asked for an appointment to see the President. Got back a letter from some minor assistant whose name I had never heard saying the President was too busy to see me. When I wrote my letter of resignation, I requested an appointment to see the President. I said, "I would like to talk over with him and give him some observations on the future of the Administrative Conference, and my possible successor." Again, I got back a letter from a lackey saying the President was too busy and couldn't possibly see me. That night he went to the ballgame, and the next night he went to the ballgame, and it made me mad as hell. I might add, Joe, that I'd already heard from my good Republican friends in Washington that they couldn't get to see him either. I didn't know it had gone to Cabinet level till the Hickel thing blew. I had not heard that, but I'd heard that every level below that, the one thing that the people were complaining about was they could not get through the staff to the President. I don't know who was doing that, but they couldn't.

But the contrast there between that and the Johnson Administration! When I remember that President Johnson had a reception for all the members of the independent agencies at the White House one day. That was a great occasion. I used to watch the social list for the White House for Nixon, and he never even invited any of them, much less have

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a reception for them. And I always knew, because others, like Bill Deason told me that if I wanted to see President Johnson, all I had to do was ask, and I would get an appointment to see him. Now, what usually happened is, I worked through Ernie, and he saw him, and I didn't need to go see him. But at least I always had close contact with the President.

F: You knew that he heard, somewhere.

W: Now, I forgot one of the most interesting things about the President. This came to me indirectly, but I know it happened, because of what was told. When I got my first budget under the Democrats, from the Bureau of Budget, they cut me from \$250[000] to, I think it was \$175[000], same as the Republicans later did. And I phoned Ernie immediately and I said, "Look, you can't do this, the President promised me that I could have \$250[000]. After all, that's not enough, and you know it, and everybody knows it. And this is not the way it was promised, and it just can't be done this way." He said, "Well, I understood this was all worked out. I'll check into it." And, sure enough, what happened was that the President had given out orders to, I think Charlie Schultze then, saying, "You absolutely must cut this percentage out of this budget. We've just got to do it." This was because of pressure from Wilbur Mills and so on. "It just has to be done!" And so Ernie phoned me back, and said, "This is the problem," and I said, "Well, look, look at the amount of money involved, and you can talk all you want about across-the-board things and so on, but I just can't operate like this, and I'm going back home, because I

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can't operate like this." He said, "Well, let me see what I can do." Well, what it ended up was, President Johnson got on the phone to Charlie Schultze, and said, "Look, Charlie, I know I told you that it had to be this way, but you've got to restore these Administrative Conference funds. I'm sorry, but you've just got to do it, that's one thing, I told you to be tough, but you've got to do it." So President Johnson got on the phone to help us out in this way. Now, that's the sort of thing you kind of need, but that is the sort of thing you unquestionably didn't have with the Republican administration. But my guess is that my successor, who's a Republican, doesn't have it either. Because from what I gather about this Republican administration you just don't get that sort of thing out of the White House.

F: Well now, you've got a ceiling, a higher ceiling, established.

W: \$450,000

F: Yes. Is it your feeling that the ceiling will be a target for quite some time and that future budgets will run somewhat below it?

W: What we were asking for was no ceiling stall. When they said, "Well, set an amount for a ceiling," when it became clear they wouldn't take the ceiling off, I said, "All right, \$500,000 ought to last us four or five years anyhow," and then they made it \$450[000]. They said, "What would happen if it were \$400[000]?" And I said, "I think I would go home, because it just isn't enough, unless you want us to come up here every year, and I just don't think that's the way to do it." The ranking Republican, who was the one who was obviously attacking us, Congressman [Richard] Poff from Virginia-- I think obviously he is the one who held it down to \$450[000]) --but even he seemed to realize that it could be

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too low a limit. I would say that the \$450[000] is probably good for a ceiling--if we can get that money--at least for four or five years, which is all they wanted, apparently, from the way they talked. Now, I don't ever see it as a large funded operation, unless new duties are given to it. Now this could happen in any one of a number of ways. Senator Tower introduced a statute giving the Administrative Conference--he didn't ask us about it--the obligation to supervise and check all the actions of all the administrative agencies to see if they were within the contemplated statutory delegation to power. And he didn't suggest appropriating any money to do that. That's a fantastic job.

F: That would take a regulatory staff, wouldn't it?

W: Yes. Now, insofar as this may develop into a ombudsman operation, and it could very well, indeed the American Bar Association recommended that the chairman of the Administrative Conference designate himself an ombudsman for one or two specific administrative procedures, like Veterans Administration or something, just to see how it would operate. This would take a lot of money. You'd have to have a much bigger staff. But as long as it keeps exactly the same kind of function that it's filling right now, it will never be a large funded operation.

F: Did President Johnson himself ever send over the word to you that something ought to be looked into?

W: He never did; he never did.

F: You wrote your own ticket all the way?

W: That's right. Now, we got two names from the White House for membership; one on the council, which was the President's appointment

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anyhow, so it didn't make any difference; and one on conference membership, and we fulfilled that one. We were also asked to at least show our names to John Macy and his staff, to see if we were running into any trouble with somebody who might be a real political problem.

F: Yes.

W: It was perfectly obvious since a number of these were good Republicans, that there wasn't any attempt to say that we were striking him out because he was a Republican. We got the word back from Macy's office on one name; the word was, "This man may have an axe to grind, and you'd better be careful about him." This is the man whose name we got from the White House to appoint!

F: I see. (Laughter)

W: So it was a rather ironic thing: two parts of the White House were going in opposite directions there. So I said, "Well, I'm not going to worry about that if the White House wants this one man, we'll put him on!" As a matter of fact, he turned out to be a very good member, and I reappointed him. He was a liberal Democrat, and he got political people to phone me to ask that he be reappointed, too.

F: Do you mind saying who it is?

W: No, no. It was Arthur Kirshon who was in Miami Beach, and the chairman of the board of The Washington Savings and Loan Association down there.

F: Let's go back a moment. The ABA set up a nine-member committee in January of '67, if I recall my dates, to look into mediation of labor disputes in the Transportation--

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W: I was already on that committee before I got appointed to this. January '67, that's right. I was put on that committee, was appointed by Orison Marden, who was then the President of the ABA. My guess is that one of the reasons he chose me is because I had won that Ross essay contest of the ABA in 1963, on the same general subject. This had been one of my specialties. That committee began to meet. When I was appointed to the government thing, I raised the question of whether I should resign or not, and they all decided that I should not, as long as our reports carried the admonition that I'd been appointed as a private citizen and this sort of thing. We held open hearings. While this was going on, Jake Pickle got interested in the same problem, and he consulted with me. We had open hearings, and he got interested at the same time with a bill; he could not get this committee to act on it, but he did from time to time talk to me about the bill. And I talked with him, not on the basis of what we were deciding in the committee, because we didn't really know at that point, but on the basis of what I myself, had written earlier. We ultimately came out with a report, making recommendations. The ABA kind of stalled for almost two years on finally approving it, sending it to other committees, because there was so much opposition within the labor law section of the ABA, for example. But finally at the last session of the House of Delegates in St. Louis last August, they adopted it, approved it. And it is very close to what Jake is recommending.

F: What happens now? Is that just used for its impact on the federal

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government?

W: They may very well get somebody to introduce it in Congress. Now the President has his own program introduced and my guess is that this also will be introduced. And the ABA will officially push this proposal bill.

F: This is strictly ABA. It has no government involvement?

W: No government involvement whatsoever. Strictly American Bar Association.

F: It's there for persuasion effect.

W: That's right.

F: Right. Were you ever offered any other job with President Johnson?

W: No.

F: Have you seen him since he's been out?

W: Have not seen him. Had a nice note from him.

F: Did he seem to approve of what you'd been doing with the Administrative Conference?

W: I just don't know. I never heard from him in that respect at all. Let me think if there's any.

F: Okay.

W: So there may be something there, anyway.

F: Can you think of anything else we ought to get into?

W: I can't think of anything.

F: Well, thank you, Jerre, very much.

[End of Tape 1 of 1 and Interview I]

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