

INTERVIEW VII

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INTERVIEWEE: FRANK M. WOZENCRAFT

INTERVIEWER: T. H. Baker

PLACE: Mr. Wozencraft's office, Department of Justice, Washington, D.C.

Tape 1 of 1

B: Today's subject is the reorganization plan that involved the transfer of the Bureau of Narcotics and Dangerous Drugs to the Department of Justice.

W: The Plan of Reorganization Act of 1945 authorizes a quite unusual method of law-making, which has proven to be very useful to the executive branch. Under the Constitution, of course, the statutory process includes passage of legislation by the House and the Senate, and before it goes to the president for signature, it must be passed by both of those houses in the same form. The president then has ten days within which to sign or veto the bill. If he receives it at a time when the ten days, which does not include Sundays, expire before Congress has adjourned, then a failure to sign constitutes approval of the bill. If the Congress has adjourned *sine die*, or for any period more than three days, then his failure to sign constitutes a pocket veto. But the president doesn't get in on the act until the end of the legislative process.

Under the Reorganization Act, the president initiates this process. The statute is limited to situations involving reorganization with the executive branch. The president

Wozencraft -- VII -- 2

proposes a plan which must be complete in every detail that he wishes to have in the plan, because the plan cannot be amended by either the Senate or the House. If either house, the Senate or the House, disapproves the plan within sixty days after it is submitted by the president, then it is invalidated. If neither house disapproves it within the sixty-day period, then the plan of reorganization goes into effect. Obviously, this is a good deal easier for the executive branch because blocking action is necessary by the Senate or the House rather than affirmative action being necessary, and that is a good deal simpler problem from the standpoint of the administration. All they have to do is stave off the adverse vote.

I guess I was first called to the White House, to Califano's office. Present there, in addition to Califano, were Larry Levinson, his assistant, and representatives of the Treasury Department and of HEW [Health, Education, and Welfare], as well as myself. We were told that the President had decided to submit to the Congress a plan of reorganization which would take the Bureau of Narcotics from the Treasury, and the Bureau of Drug Abuse Control from HEW, and place them both in the Department of Justice as one consolidated bureau to wage the war on both narcotics and the hallucinogenic drugs. This plan made a great deal of sense; in fact, it was long overdue. The Bureau of Drug Abuse Control in HEW had been created quite recently, I think it was 1964, in order to get more scientific exploration of the new hallucinogens, such as LSD. It also had a policing role, however, which in many respects was similar to what Bureau of Narcotics traditionally had performed in Treasury as to the narcotic drugs such as heroin and marijuana.

Wozencraft -- VII -- 3

The location of Narcotics in Treasury to start with was an anomaly. It came from the role of Treasury in collecting taxes and was inherited from the days when narcotics were heavily taxed, and when that, indeed, was the main method of control. The Bureau of Drug Abuse Control in HEW, when it was created, took over a good many of the narcotics people; and there was a quite sharp rivalry between the two bureaus. Yet one drug peddler could be handling--and, in fact, usually did handle--both marijuana and LSD, even if he didn't work his way up to heroin. This meant that both bureaus were a duplicated effort; they were duplicating regional offices, and sometimes they'd have two men trailing the same dope peddler. This obviously had to be straightened out. The only question was where the collective enterprise would go.

The reason that they had not been put together earlier was a difference in emphasis and in support on behalf of these two organizations. The narcotics people had considerable support from the Ways and Means Committee and from the fans of the Treasury, as well as the Appropriations Committees dealing with the Treasury. They felt that the narcotics people continued to be hard-nosed law enforcement officers, whereas the Department of Justice was soft on crime, unquote. The people who thought that drugs were primarily a societal problem requiring research as to what made people feel insecure and made them feel the need of drugs were interested in the research and educational aspects, and these people were convinced that HEW was the logical place for this kind of effort, that you should not confuse the educational and research role with the role of a cop. So you had rather substantial clienteles backing each of these agencies.

Wozencraft -- VII -- 4

Justice didn't have too many friends in either of these areas. Educators felt that it would be better in HEW; the hard-nosed law enforcement types thought it would be better in Treasury. Yet the tie-in between drug traffic and organized crime had been increasingly significant in the importation of heroin and in its distribution throughout the United States, as well as other drugs. I would say heroin was where they hit the most, but LSD also. There have been some quite big factories even, domestically, manufacturing LSD that have had to be closed down through law enforcement devices, at first detecting them, because they operate surprisingly undercover for such a large enterprise. So as a part of the war on crime, it seemed very logical to concentrate these efforts in the Department of Justice.

B: Did you ever find out where the idea originated for combining these two and putting them in Justice?

W: There are a good many versions of that, and I don't have a really definitive one. I think that it probably was a product of the Task Force on Crime; we talked earlier about these task forces that get people from various departments. I think the Bureau of the Budget had an input because they saw the duplicate expenditures involved. I'm sure that the Department of Justice went along with it but did not initiate it. The Department of Justice was not that anxious itself to take on these new activities at the start. As the plan developed, the Department became more and more enthusiastic because it saw more and more how important it was to have a tie-in of these activities with the fight against organized crime.

Wozencraft -- VII -- 5

B: Would Califano's operation have been involved in the conceiving of the idea as well as the working out of it?

W: I'm sure it was, because that office was in charge of all of the task forces for the legislative program, and this was part of the legislative program. Whether the initial idea came from Budget or from Califano's office, I don't really know. I don't think it came from any of the three departments involved, HEW, Treasury and Justice. I'm certain it did not come from Treasury.

Treasury opposed the change. They felt that this was eroding their very important function of law enforcement in other areas; they had just lost the Coast Guard to Transportation the year before. If they lost Narcotics to Justice, who knows, the next to go might be Customs, and then they would be back to nothing but fiscal policy and collecting taxes. And so they were quite strong in their opposition to the plan.

HEW was not nearly as opposed, because they found that their educational and research activities were being somewhat hampered by their also assuming the role of cop. The way the plan developed, they would continue their own research program on drugs in cooperation with what would then be the Bureau of Narcotics and Dangerous Drugs in the Department of Justice, and they were perfectly willing to give up the cop function, although I am sure that there were some people there who institutionally thought it would be better to keep it.

This basically is bureaucratic in that every department is looking at it a little bit from the standpoint of what functions it is to perform. I think the Department of Justice was less bureaucratic than anybody, and Treasury was more bureaucratic than anybody in

Wozencraft -- VII -- 6

this particular situation. I don't use this critically; I'm sure that Treasury thought that it had been doing a fine job on Narcotics traditionally, and there was simply no reason to move it.

B: One more bureaucratic question. You may cover this later; if so, let's just postpone it. Given the idea that drugs is going to move into Justice, was any thought given of putting this within the FBI structure rather than setting up a separate bureau?

W: Yes, and after very little thought, it became clear that that would not be a good idea. The FBI did not want it either. The FBI is an investigatory agency. The FBI does not want to be a law enforcement agency; it wants to be an investigatory agency. This required a very special kind of expertise and set of problems, and I think it was quite clear to everyone that it would be better as an independent organization within the Department. Certainly, the war on narcotics and dangerous drugs warrants that kind of concentration.

As a matter of bureaucracy, however, you had personality conflicts, as well as ideological conflicts, between the Bureau of Narcotics and the Bureau of Drug Abuse Control. In fact, the latter people, a lot of them had come from Narcotics, were swearing that if this new bureau really came under the domination of the Bureau of Narcotics, they would leave. And I'm sure the Narcotics people felt the same way about this upstart Bureau of Drug Abuse Control. The heads of the two agencies were cooperative with the Department of Justice, but understandably a bit apprehensive about how the whole thing would work out. I can't blame them. I think anybody in two companies that are going to come together have the same concerns.

Wozencraft -- VII -- 7

B: There must be a more direct concern. Here are two separate agencies which are going to be merged, which means only one head.

W: The word "merger" is very interesting here, because in the corporate sense, a merger is a joinder wherein one company swallows up another. A consolidation is where two companies come together to form a new company. This was a consolidation rather than a merger, and we stressed that as a concept in talking with the people in both groups, to make sure that they understood that they weren't going to be swallowed up by each other. They were going to be joined together.

B: But they still ended up as one group. . . .

W: There still was the question of who would be the bureau chief, and, even below that, who would get what kind of position. Let's take the regional offices throughout the country. There had been two regional office heads, and now there would just be one in each region. So, in terms of authority, there was a good deal of concern, and yet it was part of the whole purpose of this to reduce the duplicate effort. You just couldn't have two parallel structures that never meshed, or you might as well leave them in Treasury and in HEW.

B: I've interrupted. You move into this with the meeting in Califano's office.

W: All right. At that meeting, Califano came out with what, in the army days, we would have called a "now hear this" to both the Treasury and HEW. He said, "This is the decision of the administration. If you stay with the administration, we expect you to support it. If you don't feel that you can support it, then we don't insist that you stay with the administration." It was about as strong a statement as I've ever heard him make on

Wozencraft -- VII -- 8

any subject of this nature. I think that it must have been occasioned by real foot-dragging that had occurred before I arrived in the picture. In other days, while the task force was reaching its decision. But from the time I got there, with that "now hear this" having been issued, people went along fairly well. To my best knowledge, no one resigned.

The first thing we had to do was to draft the executive order. This is a function in which our office plays a significant role because, again, it's a part of the legislative process, and we are charged with approving every plan of reorganization before the president submits it to the Congress.

B: In this context, is there a distinction between an executive order and the plan of reorganization that will go to Congress?

W: We clear both of them, but the two are quite different. The executive order is something done by presidential action, and it is complete with presidential action. The plan of reorganization, as I mentioned earlier, is valid only sixty days after it is filed with Congress and then only if neither house has adopted a resolution of disapproval.

While we're off the topic of the meeting, let me raise one interesting constitutional problem. The Plan of Reorganization Act has come under considerable fire as being a shortcut of the constitutional legislative process. And the Act itself is to expire, and may have just expired, and probably cannot be utilized until it is reenacted. The Congress doesn't like this act at all as a whole, because it deprives the Congress of the right of amendment. The Congress can vote it up and down, but it can't change it and shape it to suit its will. The constitutional theory on which the Act rests is that the same ingredients that the Constitution calls for in the legislative process are present. The presidential

Wozencraft -- VII -- 9

approval comes not by veto, but by his initial submission of the plan in a form that cannot be changed. There is, therefore, no occasion for him to look at it again since it is either voted up or down and will not be altered. The approval of both houses is obtained, although by the negative approach of having neither house disapprove. You still have the key ingredients of presidential approval and approval of both houses.

In this respect, there is a considerable difference from what we call the one-house veto provisions that Congress sometimes tries to put into other statutes. This, we feel, raises separation of power problems because there are amendments, there can be changes, and also because these matters are substantive and do not involve simply reorganization within the executive branch. On the plan of reorganization front, the theory is that this is limited to an executive branch organization situation. This same one-house veto problem has most recently come up in the context of the pay raises, where the Kappel Commission report is submitted to the President, the President submits recommendations of a slightly lower level to the Congress, and either house had the right to disapprove within thirty days. As I understand it, neither house has disapproved within thirty days, and the pay raises do go into effect.

But in any event, this is a fairly precarious kind of a technique which itself has congressional opposition. This opposition manifests itself often in opposition to controversial plans. There's a limit to how controversial something can be and still get it adopted through a plan of reorganization. On the other hand, you are dodging the substantive committees that often would block action. An example of this is the District of Columbia Plan of Reorganization, where the Government Operations Committee,

Wozencraft -- VII -- 10

which deals with plans of reorganizations, let it go through, where the District of Columbia Committee and the House very well might not have let it go through and certainly would not have initiated the action that was achieved by the President's submission of this plan. Therefore, the use of a plan can be very important and, indeed, critical to whether something can be achieved or not.

One of the functions that my office must perform is advise the president as to whether a particular topic is appropriately the subject of a plan of reorganization. In this particular case, however, with Narcotics and Drug Abuse Control, it was a natural. It was exactly the kind of thing for which a plan of reorganization ought to be used. And we did not regard it as particularly controversial. We understood that HEW and Narcotics each had its fans, but we thought that the clear benefits of getting these two things together in conjunction with other law enforcement agencies would avoid any real fuss or muss. So we did meet with the Bureau of the Budget, and we did draft a plan, which, in turn, the President did announce in his message on crime and did submit to the Congress that day.

Perhaps we should talk more a little later about the legislative program and the way it's handled. Let me interject here that the President was very anxious always to have his recommendations in his messages to Congress accompanied or followed immediately by the bills or plans of reorganization that he expected to submit to the Congress implementing those messages. So this went right on to the Congress that day.

There were several very delicate points in the drafting of the plan. I won't go into too much detail there, but I will raise one that caused particular trouble. Narcotics had a GS-18 as the director, a GS-17 as an assistant director, and three GS-16s. Bureau of Drug

Wozencraft -- VII -- 11

Abuse Control had a GS-17 as director and a GS-16 as assistant director. They were about the same size, but BDAC was concerned that it would get swallowed up by these higher grades of the Narcotics people. Also, it was quite clear that, for an organization of this dimension, particularly if beefed up to the overall force that the administration hoped for, would require more super grades. Each agency had around three hundred agents, maybe a little less than that. The total would have been somewhat less than six hundred, and the administration wanted to increase this number to nine hundred. In addition to bringing the two together, it would further supplement these agents as a force. In order to do this, we needed to determine the level of the new director and determine whether new super grades should be created within the plan. It was decided that the level of the new director should be a level five, one notch above a super grade and one notch below an assistant secretary or assistant attorney general. This is on a par with the Bureau of Prisons chief and the Immigration and Naturalization service chief and a thoroughly appropriate level. Some people wanted it up to four, some thought it ought to be down to eighteen, but we decided this was the logical place, and I think it is.

By putting the creation of that level in the plan itself, it was possible to avoid using one of the President's discretionary level-four and level-five appointments. He had thirty-five in all, but he had used most of them up. And by adding it in the Plan, we avoided using one more up.

Then came the question of what we do with the super grades. Partly because we knew more super grades would be necessary and partly because of the strong feeling of BDAC that they were going to be inundated, we provided in the plan for the addition of

Wozencraft -- VII -- 12

one GS-18 and two GS-16s. This would have, in effect, given equality to the BDAC with the existing Narcotics setup, but we did not earmark those jobs for BDAC people. We simply created them. The fact that they were being created encouraged the BDAC people to know they weren't going to be swallowed up, but did not commit the jobs to any of them. This was again one of those fairly delicate compromises, and in the context of support of Narcotics and BDAC, it loosened up the picture in terms of what would happen to the top people and was a very constructive thing to do.

From the standpoint of Civil Service Commission personnel policy, however, it was a very bad thing to do. They had entered into a commitment to the Post Office and Civil Service Commissions that additional super grades would not be added by plans of reorganization, but would be evaluated and allocated by the Civil Service Commission itself. We didn't know about this position, and the Bureau of the Budget people were charged with clearing the plan with the Civil Service people. The Civil Service people did not sit in on the budget conference, which I believe they should have, and the Budget people did not clear it with the Civil Service Commission as we had been assured they would. As a result, the day the Plan went up, when it was too late to change it, we got howls of anguish from the Civil Service Commission. Whether those howls would have prevailed if earlier registered, I'm not sure, because, as I say, there were real functions served by adding these super grades. But it was another example of the importance of coordination and what can happen when coordination is not achieved. It certainly is true that the Civil Service Commission should have had a full hearing on this point before, and we should not have been under the gun to try to be deciding it at the last day, and yet

Wozencraft -- VII -- 13

that's what happened. It ended up with John Macy and myself talking. We both recognized that this was something that had to go to the White House; it went to the White House. Califano's office decided in favor of leaving the super grades in the plan, partly because it was on its way up anyway.

At that point, with no amendment possible in the Congress, the question came whether this would trigger opposition within the Post Office and Civil Service Committees that might lead to a resolution of disapproval. Once the die was really cast, and once they were persuaded that we didn't really plan to do it again, and that it had been an inadvertent occurrence, the Civil Service Commission played ball very well indeed and explained these circumstances to the Post Office and Civil Service Committee. As far as I know, they put up no argument whatever. I think there was a genuine concern on the part of the Civil Service Commission, and it was a legitimate concern. Fortunately, it did not really cause any static.

In the Senate, once the Plan went up, we encountered no opposition whatever when it went to the Hill. I was asked by the Department of Justice to head up the congressional liaison on this matter. It was not my ballpark in the sense that I had never worked before with Congress on anything of this nature; moreover, the real questions that the Congress had to ask did not involve constitutionality or legality, but what are you going to do with these two organizations? How are you going to put them together? What are you going to do next? What kind of legislation will you have on penalties for drug use and peddling and so forth? These were questions that were really within the Criminal Division's jurisdiction. The Criminal Division, however, was absolutely

Wozencraft -- VII -- 14

inundated with its obligations in connection with the Safe Streets and Crime Control Act and other criminal measures, and this was simply an effort on the part of the Department to spread the burden as best they could. Since OLC [Office of Legal Counsel] had a somewhat logical connection with this as a plan of reorganization, I was asked to head it up. I grumbled and tried to avoid it a little because we were awfully busy on the rest of the legislative program and the role that our office played on it, but I obviously went ahead when the Department insisted that it was the thing to do, and I must say I enjoyed it thoroughly. There have been a lot of things in government that I thought I would prefer not to do from which I have derived a great deal of satisfaction and education, and this was one of them.

With a team consisting of a representative of BDAC, a representative of Narcotics, or NARCO as it was sometimes called, and a representative of our Criminal Division, we paid calls on the relevant senators and congressmen to explain to them the reasons for this reorganization.

B: Since you were new at this, did someone help you pick out which senators and congressmen were relevant?

W: Well, it wasn't really that hard. It was obvious that the government operations committees in both the Senate and the House and the subcommittees that dealt with plans of reorganization were the crucial committees. It was also obvious that we had to touch base, at least, with the substantive committees dealing with these programs in both the Senate and the House. So there was a fairly long list, but the really key people were the subcommittee people.

Wozencraft -- VII -- 15

B: Do you also work with the White House congressional relations man in this kind of thing?

W: Yes, but slightly. We met at the early stages. Later on, a fight developed that I will describe in a minute, and it became important to get them in. But at the beginning, we were rolling our own on the fairly blissful assumption that this wasn't any real problem. As soon as we explained the Plan and how good it was, we thought that everybody would understand. This turned out to be a little bit naive. (Laughter)

The Senate did understand. We talked with [Jacob K.] Javits, for instance, as the ranking Republican on this committee interested in drugs and these problems; we talked with [Abraham A.] Ribicoff, who had no problem at all. We sent word to Bob Kennedy's office as to the problems and volunteered to meet with him if he had time and if he would like to. The response from the Senate on both sides of the aisle was this is no problem; this is fine. And no resolution was ever introduced in the Senate that disapproved, and no committee hearings were scheduled in the Senate.

The House, however, was a different story. Here, the subcommittee in charge of plans of reorganization [was] headed by Congressman John Blatnik of Minnesota. It had a Democratic majority; it had a fairly vocal and active Republican minority, and it had as a member of this minority two Republicans who were quite opposed to the Department of Justice and its policies. One of them, Congressman [Jack] Edwards of Alabama, had indeed accused the Department of Justice of being soft on crime. The other, [John N.] Erlenborn of Illinois, who was the ranking Republican of the subcommittee, was not on record in that sense, and we really didn't expect that much trouble with him, but he was

Wozencraft -- VII -- 16

perfectly willing, as it turned out, to go along with Congressman Edwards. And I don't know who started what. I know that the two of them together started to mount a real fight against adoption of the plan.

This broadened the horizons of the people we had to talk to, and we got into the whole Government Operations Committee quite quickly. In fact, we had touched base with their key people anyway. The chairman of that committee was [William C.] Dawson of Illinois. The ranking Republican was Congresswoman [Florence P.] Dwyer of New Jersey. The key Democrat on the committee was Chet Holifield of California. The floor fight, when it eventually came, was headed by Holifield and Blatnik. But I'm ahead of myself with that. We also touched base with Ogden Reid, who was a personal friend of mine and was the number-two Republican on the Government Operations Committee. It was from Reid, as much as anyone else, that we learned that this was not going to be exactly a friendly tea party, but that there was going to be a real effort to defeat the plan. It was very difficult to fit this kind of a real fight in with my other obligations, and I did not have at my disposal any experienced Hill men in terms of dealing with this kind of situation.

So this is where we quickly called on the White House, and Barefoot Sanders, who was in charge of the legislative efforts in the House for the White House and also was thoroughly familiar with our Justice Department problems, having served as assistant attorney general there, came in to help. We still were thinking that our main job was one of education, and so we expanded the number of our visits to include the entire

Wozencraft -- VII -- 17

Government Operations Committee. We then were fairly well assured that we were going to get a favorable vote in both the subcommittee and the full committee.

The subcommittee held hearings, however, and we had to be able to persuade it. The reason we were confident we could get a favorable vote was that we had a fairly clear-cut Democratic majority, and the Democratic leaders had told us that they would agree with us, and indeed the other people we talked with, after a good many searching questions, agreed to go along.

Among those Democrats, our problem came from HEW fans, who were afraid we were going to neglect the effort of education, not from the Narcotics fans. The Republicans, on the other hand, were basically Narcotics fans. We also had to talk to the substantive subcommittee people, such as Paul Rogers from Florida, who was very concerned with what the enforcement procedures would be and what the substantive criminal laws would be, because that came under his subcommittee's jurisdiction. And we found that initially he was opposed to the plan because he was afraid that it would result in adverse impact in this area. We found a lot more people than we expected opposed to the plan because of some concern they had, either about the educational features or the law enforcement features. We found others concerned about any plan of reorganization, and we found a surprisingly strong Republican desire to twist the lion's tail and defeat the administration, if they could, on anything.

B: This is in an election year?

W: This is in an election year, and I was really quite surprised at the extent to which the Republicans rallied around on an issue that I would have regarded, and indeed have

Wozencraft -- VII -- 18

regarded, as noncontroversial. Not only did they rally around, the pressures really went on. The Republican Policy Committee did not take a position on it. Ordinarily, this leaves Republicans free to vote for us. But the Republican Crime Committee came out opposed to the plan. The main Republican strategy was to defeat the plan and then to substitute their bill, which might have some of the aspects of the plan, would certainly bring the two organizations together, but would probably do it in Treasury rather than in Justice.

B: As the fight is building up here, are administrators from Treasury and HEW staying out, helping you, or working with the opponents--

W: I had the director of the Bureau of Narcotics at my side in most of these conferences, as well as the director of the Bureau of Drug Abuse Control, and they supported the Plan there. I have since been told by Republicans, as well as by some Democrats, that key Treasury officials were opposing the Plan *sub rosa* and were really fighting it on the Hill. This is hearsay; I can't prove it. I'm confident that Joe Fowler himself was no party to anything like this, and I'm confident that the key Bureau of Narcotics people, at least the head of it, who was going to be moving over and who hoped to become director, was not an overt part of that. There's no doubt in my mind that the Narcotics people and Treasury all would have preferred that everything stay where it was, but how much they really fought us behind the scenes, I don't know. I think there was very little HEW fighting behind the scenes. I don't think they cared that much. As I say, to them, the whole program had been a mixed blessing. It made it a little harder for them on the college campuses to have this law enforcement function, and then some of them were rather glad

Wozencraft -- VII -- 19

to get rid of it. And [James L.] Goddard, the head of the FDA under which this operated--the Federal [Food and] Drug Administration--had, after some reluctance, agreed to go along with the Plan. Wilbur Cohen was thoroughly on board and, indeed, wrote letters supporting it when we asked him to do so, at the request of certain Republican congressmen.

In the legislative process, and also in this plan-of-reorganization process, because it's really the same animal even though the mechanics are different, the subcommittee is the key place for the hearing, of course; and the subcommittee hearing did evolve for the first time, and disclose for the first time, the Republican strategy. It became quite important for the Attorney General to testify himself before this committee, and he did a masterful job.

We found that it was a very confusing kind of a thing, mainly because it's so easy to drag red herrings across the path about the educational function. And there was a lot of talk about how education would be turned over to the cops; it was unwise to have the educator and the law enforcement man together, which is exactly why we wanted to get it out of HEW. But people had an erroneous idea of what education involved and were somehow afraid that HEW's education and research efforts in the area would be short-circuited by this. We had no such intention, and I am confident that has not occurred. We would continue to use FDA laboratory facilities until the department built its own laboratories and acquired more personnel, and there would still be a complete interlock with the National Institute of Mental Health, and National Institute of Health, and others.

Wozencraft -- VII -- 20

Anyway, the hearings cleared away a good many cobwebs, and, in that sense, were very desirable. Of course, in theory, I suppose the executive branch should prefer no hearings because then there's no objection. In practice, however, the House committee feels an obligation to hold hearings on every kind of plan of reorganization, and I think they're right. I feel that this kind of issue ought to be exposed to the crucible of a hearing, and I not only had no objection to the hearing, I welcomed it.

But the hearing made very clear that even though the Attorney General was answering brilliantly every question that Edwards or Erlenborn threw at him, as with most committee hearings, no really opposed votes get changed in this process; and Edwards and Erlenborn, plus a third Republican, who did not appear at the hearing much, all voted against the plan in the subcommittee. It then went from the subcommittee to the Committee on Government Operations, and here my efforts to talk to Congresswoman Dwyer, for instance, were absolutely in vain. She doesn't like plans of reorganization anyway, and she certainly wasn't going to go for this one. She insisted that this wasn't because of the Republican policy, but because of her own policy. When she went in that direction, however, there trundled along all the other Republicans on the committee with one exception. Ogden Reid, with whom I had talked in depth and who had asked for a letter from Wilbur Cohen and had gotten one from Wilbur Cohen saying that this was a good thing, did vote with us at the full committee level. He was the only Republican who did. Congressman Edwards and Congressman Erlenborn nevertheless proceeded to press to a floor fight their resolution of disapproval. And a floor fight is something that you

Wozencraft -- VII -- 21

have to see to believe. You have to see it not on the floor, but in its formative stages.

And I did have an exceptional opportunity of watching it here.

The subcommittee and the committee, when you're trying to block something, are more or less like the pass at Thermopylae. There's a rather narrow circumscribed area of action. Sometimes there can be an end run, but basically, your confrontation is in the subcommittee itself. When you get to the floor fight, you have spilled out onto the plains of Marathon, and there is no defined limit to the area of battle. When you're dealing with over four hundred congressmen reacting to entirely different stimuli, you have a major problem. And Reid's prediction to us that this was going to be a difficult fight, and we had better prepare our case in a lot more detail than we had, and do our homework very well, turned out to be an understatement. Warned of this, we did do our homework very well. We prepared, I think, very competent and short and concise summaries of why the plan was a good idea and why these bugaboos and red herrings were not really applicable and should not lead people to vote against the plan. I don't know how many congressmen I visited personally in the process of this, but it certainly exceeded twenty-five and was probably closer to fifty. Others were making their own approaches.

As with most things in the House, the individual congressmen do not have time to analyze and evaluate the separate problems. They have to act by conditioned response. And one of their conditioned responses is, what is our leadership doing? Another response is to what noises are our constituents making? Where do their interests lie? And a third one, of course, whatever party they're in, is what does the administration want? If they're Democrats under a Democratic administration, they tend to be for that

Wozencraft -- VII -- 22

position. If they're Republicans, they tend to be against it, unless their leadership or their constituents or somebody with a real direct impact on them has made it clear that they ought to vote otherwise.

This was a very disillusioning process in some ways, because we found some congressmen would pretend to be listening but simply were not. They would not commit themselves at all. Some would lead us along as if they were going to vote for us and then did not in the final analysis, and I'm convinced never intended to. There were others, though, who were very receptive and wanted to be told and wanted to learn what this plan would do and why it was a good thing and raised very perceptive questions. I think you ran the whole gamut of ability in the Congress.

One of the most amusing interviews I had, in retrospect--it really wasn't very funny at the time. Congresswoman [Margaret] Heckler of Massachusetts was a member of the Government Operations Committee, and I came by to pay court, and her secretary told her that the assistant attorney general was waiting to see her. She got it mixed up and thought it was the attorney general of Massachusetts, and she welcomed me with open arms. When she found out that I was indeed the assistant attorney general of the United States government, she turned to furious indignation as if she had really been had. Well, if she had been had, it was by her secretary, not by us, because we certainly never wished to pose as state officials. Our whole job was to explain, as federal officials, why this was a good thing. Congresswoman Heckler was indignant at the fact that possession and use of marijuana is illegal and was afraid that the Justice Department would now invade the college campuses and brusquely cut us off with a minimum of what can be exaggerated

Wozencraft -- VII -- 23

into being called politeness. This was the only case, though, in either the Republican or the Democratic camp where we didn't meet with courtesy. And there were some congressmen who were more than courteous and went out of their way to be helpful.

A couple of the Republicans, who voted against us in the Committee on Government Operations, indicated that they were sorry we hadn't talked to them sooner, that if they had not taken their position, they might well have been persuadable. Whether that was true or not, I don't know. Certainly they did not change their votes to vote for us when the floor fight came. But I think it is true that it would have been better if we had done a little more thorough job of contacting every Government Operations Committee member before the vote. This emphasizes the importance of organization of groundwork and an immense amount of just plain effort to see all the necessary people if you have anything that is significant.

A very few days, really the day before the floor fight, it became clear that this issue was very much in doubt. There were a good many southern Democrats who were tempted to go with the Republicans. We had had very little luck in denting the Republican ranks, particularly after their Crime Committee or whatever it is came out with this condemnation of it. They just trooped right along. The night before the vote on the floor, I was in the Longworth Building--I guess it was two nights before--and I happened to see Wilbur Mills, before whose Committee of Ways and Means I had testified on other occasions, and I stopped him in the hall to say hello and to explain to him about this Plan and to say that we hoped for his support. He asked me several questions about the Plan; the main one was, was it true that we were planning to take over

Wozencraft -- VII -- 24

the duties to the Department of Justice from the Bureau of Narcotics without taking the Bureau of Narcotics' personnel. This was absolutely untrue. Along with the Bureau came all the personnel in the Bureau. He was quite surprised at this, because he said he had been told by the Republican congressmen soliciting his vote that only the duties and not the personnel would be transferred. When I explained to him the way it really would work, he said, "Well, that puts an entirely different light on the matter. Let me check with my other colleagues," and I said, "I will be happy to have you do so, and I would also appreciate it if after you check with them, I can meet with you again to see what the situation is. And if there are problems here, we certainly need to know about them."

He said, "Fine," and that evening I met him again at six o'clock at his committee office. He told me that he had checked and he was prepared to support our Plan of Reorganization. I asked him whether he would be willing to make a speech on the floor in favor of the plan. He said yes, if the Attorney General would give him a letter explaining the point that I had mentioned in making it clear that nothing would be done to undercut the effectiveness of the Bureau of Narcotics' operation in the new bureau. I told him that I was sure that that would be entirely satisfactory to the Attorney General. He said, "All right, get that to me by tomorrow morning." So I went back to the Attorney General, and I wrote the letter and the Attorney General signed it, and I got it back to him the next morning.

Let's see, I guess the night I visited with Mills was the afternoon before the vote. The vote was to be the next afternoon. That next morning, I made several other contacts, trying to get speeches made. For instance, Paul Rogers, who had initially opposed it

Wozencraft -- VII -- 25

because of his concern about the drug penalties and things, was persuaded that it would be desirable, and he agreed to support it. So we had another southern Democrat on the line to make a speech for us as well as Wilbur Mills.

The interesting thing about this is that, at this very time, Mills and the White House were locked in combat on the surtax, and the White House could not have gone to Mills and asked for his support on this without a very awkward problem for both of them in the light of the surtax. The whole art of dealing with Congress, within Congress and from without, involves a great deal of trading and mutual back scratching and "you help me here, and I'll help you there." And if they had asked Mills--well, they just wouldn't have asked Mills for help on something that they regarded as relatively minor, as indeed it was in comparison with the surtax.

On the other hand, I, as a Justice Department official, had no vested interest in the surtax except as a taxpayer and as a member of the administration, and was perfectly free to go to Mills on this kind of a basis, not asking special favors at all, but simply explaining the situation [and] presenting the merits of it. I think it is immensely to the credit of Chairman Mills that he made not the slightest effort to refer to any other item of legislation, but simply to evaluate this Plan of Reorganization on the merits. When he found that it was good on the merits, he took steps to protect the Bureau of Narcotics that, after all, had been somewhat under his wings since Ways and Means supervises Treasury, and then went with us and submitted a floor statement on our behalf.

That gets us to the floor fight, which was run by Blatnik and Holifield, but there was one other important point before we get to the floor fight. It became clear that only

Wozencraft -- VII -- 26

by getting the speaker's office involved would we get out the necessary Democratic votes, because not enough of the Democrats really knew the whole picture, and they weren't going to get it from me. They didn't care that much about what I thought as a Justice Department representative. But when the speaker's office talks and the whip's office talks, that's something different. That's the party line. It's clear that the Republicans were at least de facto doing the same thing. I don't know what they did in practice.

But I did attend a meeting in the speaker's office with Barefoot Sanders and with the Speaker's legislative people. Therefore I saw for the first time from the inside how the floor fight process works from within the leadership, and this was really a fascinating thing to watch. Speaker [John] McCormack got immensely interested in this problem as a personal matter. He felt that anybody who opposed this Plan of Reorganization was casting a vote in favor of organized crime, and he called without stint all the Democrats that were available that we hadn't been able to get in touch with. And his technique was very interesting indeed. I remember one talk in particular where he was calling a congressman that we knew would have no particular interest in this plan and might conceivably oppose it. He got him on the phone personally, he said, "John, I want to talk with you about this Plan of Reorganization Number One tomorrow afternoon. You're for it, aren't you? I trust you're voting right. Okay, John, fine, that's good." Then he would call another fellow and he would say, "Joe, you're right on reorg plan number one tomorrow, aren't you? Well, Joe, anybody who votes against this is casting a vote for organized crime. Okay, Joe, fine, I knew we could count on you." And this is the kind of way vote after vote after vote gets determined. I'm confident that it happens on issue after

Wozencraft -- VII -- 27

issue and bill after bill, and in all candor, I can't think of a much better way to handle four hundred people all at once. But it does mark a limit on the effectiveness of congressional understanding.

B: Do you recall about how many people Speaker McCormack had to telephone?

W: Well, a lot of them were out of town. This was a Monday, and the vote was up for a Tuesday. The Tuesday through Thursday club of the Congress, that get home for weekends, have not returned yet, and so there were a lot of people that he wasn't able to reach. But he must have talked to about twenty people.

One of our really key people on this turned out to be Mendel Rivers, who was opposed to the Plan. I did not talk with him personally, and I did not hear Speaker McCormack talk with him personally, but I understand that the Speaker did talk with him personally and got Mendel Rivers to go along, that this brought over to the Plan's support approximately twenty votes. This is what I was told, but it makes sense, because there were a great many southern Congressmen who I am sure were simply following the lead of Congressman Rivers, as they must follow the lead of somebody in matters that they do not understand. And the question is, "Who do we trust, who shall we follow?"

I was very disappointed in the reactions of some congressmen who I knew personally and in whom I had great confidence, who refused to budge on what I regarded as a clear-cut point of reason, but nevertheless voted the Republican line.

But when the hearing itself came up, Holifield and Blatnik both did a very good job. The opposition to it was led by Edwards, of course, and Erlenborn, and Congressman [Richard] Poff of Virginia. All of these people acknowledged that

Wozencraft -- VII -- 28

something needed to be done. The Republican position acknowledged that the two had to be put together, but it spoke out against using a plan of reorganization to do it. It insisted that long hearings were necessary to determine what should be done; that conceivably it might even end up appropriately in Justice, but that there were too many points where maybe there should be a division of functions, and HEW should keep more and Treasury should keep something, and they, as a Congress, should not be prepared to support this plan.

Where the strength of the Plan of Reorganization lies is that affirmative action is necessary to block rather than to accomplish. Where its weakness lies is that a vote against can come from anybody who is against it for any reason. We had coalesced against us in this situation all those who thought there ought to be more education in HEW, all those that thought that Narcotics should get everything, all those that just didn't like the Department of Justice, and all those who simply wanted to twist the lion's tail, or the administration's tail. So they all conjoined to oppose.

B: Is there also involved in this any animus against Ramsey Clark personally?

W: On the part of some conservatives, there probably was, but this is part of the "soft on crime" syndrome. It wasn't Ramsey as an individual, but Ramsey's position on crime. Now anybody who heard him testify before that subcommittee would know that he was dedicated to the proposition of improving the law enforcement in this area and getting a lot tougher in a lot of ways than had been done before, and a more effective fight against crime. Ramsey thinks in terms of effectiveness, and if he thinks that something isn't effective, then he isn't for it. A lot of people like something that sounds tough whether

Wozencraft -- VII -- 29

it's effective or not, and this is where Ramsey differs from them a great deal. But there's no doubt that his statements in other areas, his position on wiretapping, things like that, worked over into sentiment of some of the congressmen on their votes. Also though, as I mentioned, it was simply--this was a wonderful chance for the Republicans to embarrass the administration if they could.

B: Also in this process, did you get into the really knotty questions of substantive laws, the debate over whether or not marijuana should be illegal and the kind of laws that are necessary to control these new--

W: This was another factor that may have affected some votes. Part of our effort was to make it clear that they should not, because the substantive laws were not involved here. And we assured Rogers, before he came out in our favor, that we had no intention of shortstopping the reevaluation that his committee would be making of those laws, and we hoped to help him more than we could if these two organizations were sprawled over HEW and Narcotics.

When the actual debate started, I would say approximately half of the congressmen or less were present. This is a rather good turnout and more than one might expect. But obviously, nobody was going to be convinced by what was said on the floor, with rare exceptions: the people who really sat there for the whole time and who really paid attention and who listened to the opposition as well as their own leaders. My personal view is that no more than five votes, if that, were changed by anything that anybody said on the floor, although votes were changed probably by who the people

Wozencraft -- VII -- 30

found out were for it and against it. For instance, when Rivers was for it, the people that would have voted with Rivers went with him.

The most significant vote that we got was Wilbur Mills. I was later told by the Republicans who were most active in this, Edwards and Erlenborn, at a party where I saw them, that they had thought they had the day carried, because they thought they had Wilbur Mills with them, and that this would carry enough votes to put them over. So my almost-chance encounter with Wilbur Mills the night before probably made the difference between this being adopted or defeated. In fact, I'm confident that that was the case.

Yet Mills himself never got to read his statement or make his statement orally on the floor. He had promised us to do it, but he was called to the White House for an emergency meeting, presumably on surtax or something else, and his statement was introduced by Blatnik for him. Obviously, this does not make the same impact. If Wilbur Mills had been making the speech himself, there might have been a good deal more switch for us than there was. The fact that he is simply *pro forma* submitting a statement for the record could be simply a political device. In this instance, it was not; I'm confident he really had to go to the White House. But that's the way it came out.

When the ballot started--of course, before the ballot, people came in and out all day. Nobody was there for the whole time except those actively engaged in management of the bill. I don't know exactly how many people spoke, but I would say about ten people spoke for the Democrats, perhaps a few more. And certainly more than five, and probably closer to ten, for the Republicans.

Wozencraft -- VII -- 31

The most interesting feature was that Speaker McCormack, for only the second time in his House career, left the chair and came to the floor and spoke in favor of the Plan of Reorganization. The level of debate on the floor really wasn't bad. The people who were making their speeches had done their homework. They had had assistance from other people. The Department of Justice, of course, had tried to make available all the facts that the Democrats could use; I'm certain the Republican Crime Committee had made a lot of things available to the Republicans.

We did have two Republicans who spoke for us. One was John [William?] Cahill of New Jersey; the other was Mac Mathias of Maryland. Both of them were very effective in terms of their presentations. Yet even with their speeches and including their votes, on the final ballot we got exactly eight Republican votes on something that we had regarded as fairly uncontroversial. So it's obvious how important it was to keep the Democratic strength intact. The total margin of our victory was ten votes; six votes switching, and we would have lost, which is about as much of a cliffhanger as I care to come across.

The process of voting in the House has to be seen to be believed, because again, a lot of the people are out. They know how they're going to vote so if they miss the debate, they haven't missed much, but they come in for the votes. And their name is read by the tally clerk who asks for their vote and if they answer, they say "aye" or "no," and their vote is recorded and they're free to leave. And after you've gone through the list, you start again on those who haven't voted. And most of them are there that time. You can get most of them, but there is still a need for a third vote. This is obviously a vote that is so

Wozencraft -- VII -- 32

close that you just don't do it by an "aye" or "nay;" you do it by literally counting each person as you go.

As the first and second votes came along, it was clear that the issue was still very much in doubt. There were some people present who did not vote on the first or the second vote. One of these was Ogden Reid. Ogden Reid had voted with us in the committee. He had been the only Republican to do so. I'm confident that he had been severely criticized and scolded by his Republican colleagues for party disloyalty and generally playing too much ball with the administration and the Department of Justice, because we had provided him with every bit of information that he wanted; we had answered every question that he had raised; we had gotten assurances that he had asked for from Secretary [Wilbur] Cohen and so forth. On the last vote, he was near the end of the alphabet with the last voters, and he voted against us in the House vote itself.

By that time, we had already won, and this was just a matter of counting the final votes and getting everybody on the record. I have never asked Congressman Reid whether he would have voted for us if we had needed his vote for a win. I thought it would be impolite to do so, and I might not have liked the answer I got, and it would have put him on a spot. Even though he voted against us there, there is no doubt in my mind that he was of great assistance to us in helping us to evaluate soon enough the dimension of our problem. And it was a very quiet and effective campaign that Edwards and Erlenborn put on. One must give them credit for very astute legislative handling in the situation, and it took our very best efforts plus a lot of luck, plus a considerable amount of resourcefulness, plus the full credit of the speaker, plus a really fine public spirit by

Wozencraft -- VII -- 33

Wilbur Mills, to put it across. I now feel that I am a blooded veteran of the congressional wars, and yet this is just one little fight on one little bill; it wasn't even a bill, it was just a plan of reorganization, and that's what happens.

B: Did you hear anything during this process from Mr. Johnson, any criticism when things were going bad, or congratulations when they came out all right?

W: No. Frankly, this whole subject matter was not sufficiently important for his personal attention. There were just too many other things that the president has to be thinking about. If we had lost, I think we would have heard from him. When we won, that's what the president has a right to expect, and I'm sure does expect, when he has a majority in Congress. But I heaved a pretty deep sigh of relief because frankly, twenty-four hours before the vote, I wouldn't have given much for our chances.

B: Did you have anything to do after that in the selection of the bureau chief, the actual getting under way of the new organization?

W: Not personally, but I do know a little bit about this process, and I think it's an interesting follow-up. From the moment that the plan got suggested, the deputy's office in the Department of Justice started a task force to review how the two bureaus should be put together into one. And this turned out to be a very difficult job. Dealing with the personalities was hard enough, but the substantive organization and how you mesh it with our procedures and our own structures was more difficult yet. How you work out arrangements with Treasury to continue their training facilities, with HEW to continue using their laboratory facilities, required considerable interdepartmental handling.

Wozencraft -- VII -- 34

The way we solved the problem of personnel was to designate the heads of the two bureaus as associate directors of the bureau, leaving the top spot open for quite a while. For a while, the two bureaus acted fairly independently, while this process continued. And the difficulty and slowness of the process was a real handicap when we were dealing with the Congress, because they wanted to know details that we were not prepared to give them. We simply didn't know them. And until we got an actual director, we couldn't know them, because the director ought to be making a lot of these decisions. Yet you can't hire a director until you've got a bureau, and you didn't have a bureau until you had the Plan adopted. So it was a chicken-egg cycle, and we solved it, more or less, by giving them a great deal of what our thinking was and what we expected, but without pinning ourselves down.

After an interval of a couple of months, we got a very good director, John Ingersoll, who had originally come to the Department of Justice to head up LEAA [Law Enforcement Assistance Administration], [and] was shifted over to this position. He was a former police chief from Greensboro, North Carolina, also with background in Los Angeles. He's about as cool as they come, as straightforward and calm as they come, and a highly perceptive and intelligent man with law enforcement experience and a recognition of the importance of scientific research and education. I have not heard yet of his being replaced, and I earnestly hope that he is not. I think he has made a very good start.

Fitting together the various strands in the regional offices was as hard as anything else, particularly in New York. In this connection, we had heard rumors--it may have

Wozencraft -- VII -- 35

been more than rumor in our Organized Crime Section or in our Criminal Division, but it wasn't to me--that there had been some corruption in some of the regional offices.

Obviously, the agents and people working there are in a prime position, if they haven't got immense character, to receive a great amount of money for letting a million dollars of heroin slip through, for protecting certain people from arrest, and so forth. When the bureaus came to Justice, we began investigation of these instantly, and the result has been several indictments. So it did exist. And by bringing this new broom in here, we were able to sweep out what really turned out to be a little bit of corruption. I don't want to imply that the whole bureaus were riddled, I don't think that was the case; it was just a couple of regional offices in particular where these problems lay. But any corruption in this field is obviously too much.

B: Were the indictments in the former Narcotics area or the former Bureau of Dangerous Drugs area?

W: I'm not clear on this. I think both. One man I know, at least, was with Bureau of Drug Abuse Control, but he had been with Narcotics before that. And he had been corrupt in Narcotics and had carried his corruption into BDAC without ever being detected.

B: They'll be on the record. These would have been indictments as of late 1968, I guess?

W: Yes, that's right. And when you bring an indictment like this, you are saying things were not all they should have been, but you're also cleaning house; and that's what any administration must be prepared to do. There was not the slightest effort that I ever heard of to cover up or try to keep these down. In fact, they're right on the record for anyone to see.

Wozencraft -- VII -- 36

With Ingersoll's arrival, the people were put together; the regional offices were consolidated, and the two agents are now walking the same side of the street, and authorized to [arrest]. It no longer takes two agents to arrest one man carrying both marijuana and LSD.

One earlier point that I think I should mention in terms of the vested interest of congressmen--I mentioned that they respond to various stimuli; and one of those stimuli is the jurisdiction of their committees. We found that some of the most bitter opposition we encountered to the plan was from the subcommittee of the Appropriations Committee dealing with Treasury, and its chairman was a Democrat, Congressman [Tom] Steed from Oklahoma, who made no bones at all about being vigorously opposed to the plan. The ranking Republican, Silvio Conte of western Massachusetts, was equally vigorously opposed and spoke against the plan. And these are not inconsiderable congressmen; they have a following; they have a certain amount of significance. And the fact that that subcommittee opposed the plan, I'm certain, rallied votes against it. And there were other Democrats who, for various reasons, felt that they should go along with the Republicans. Obviously, that's the case or we would have won by more than ten votes; with only eight Republicans being with us, there still would have been a much more healthy Democratic margin than that would indicate.

The whole process in the Congress is, at its best, a series of compensating errors. Very often, a lot of your bad points offset each other, and you do have some immensely able people, such as Wilbur Mills, such as Mac Mathias, who are willing to take a position that, by their normal standards, would not be in their own political interest and

Wozencraft -- VII -- 37

not something that you would automatically count on them to take. And my hat is off to these congressmen, and I don't mean this as a blanket indictment of the Congress itself, but what a system! What a way to determine what the law should be! There has got to be a better one, but I guess this is a matter of congressional reorganization which, in itself, seems to have been blocked by the Congress, despite the quite healthy and detailed efforts in the last Congress to get a bill like that through.

End of Tape 1 of 1 and Interview VII

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