

J. Walter Yeagley Oral History Interview –RFK #3, 12/22/1970
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Yeagley, J. Walter; Deputy Assistant Attorney General, 1953-1959, Assistant Attorney General, Department of Justice, 1959-1970; Chairman, Personnel Security Advisory Board, 1958-1961. Yeagley discusses the American Communist party, Progressive Labor party, and Students for a Democratic Society organization. He also mentions the influence the Smith Act had on multiple Supreme Court cases, among other issues.

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Oral History Interview

Of

J. Walter Yeagley

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J. Walter Yeagley – RFK #3

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Third Oral History Interview

with

J. WALTER YEAGLEY

December 22, 1970
Washington, D.C.

By James A. Oesterle

For the Robert F. Kennedy Oral History Project
of the Kennedy Library

OESTERLE: Mr. Yeagley, we left off the last session reviewing your report for the 1961 year. I think the last thing we were talking about was the [Irvin C.] Scarbeck case. Pick it up at any point that you wish to.

YEAGLEY: Well, there's one other case that I might make reference to that the Supreme Court made a ruling on in June of 1961. This was the case of the Communist party USA v. Subversive Activities Control Board. This was the case that was to test the basic constitutionality of the Subversive Activities Control Act of 1950. It grew out of the original hearing before the SACB way back in 1950 and '51. This was a very detailed and prolonged hearing regarding the nature of the Communist party USA, the purpose being to determine whether it fell within the definition of a Communist action organization within the act. And in making its case, the government introduced very detailed evidence of the nature, the

organization and the purposes of the Communist party USA, including their adherence to the teachings of [Karl] Marx and [Nikolai] Lenin, and their ultimate objective of succeeding in imposing the Communist state in this country, but throughout the world.

The case did not reach the Supreme Court for two years for final disposition, due to the fact that it had actually been up and down the courts two or three times and sent back for further proceedings. But on this occasion, the Supreme Court rendered its decision on the merits in an opinion by Justice [Felix] Frankfurter. I believe it was five to four, with four justices dissenting. The basic thrust of the case was that this act, as applied to the Communist party, did not violate the First Amendment rights of the members or its officers. Pardon me, I should add that this would be in relationship to their right to freedom of speech and freedom of assembly, freedom to associate with whom they might choose. The Court specifically noted that it was not reaching the question of the possible application of the Fifth Amendment, as the case was not yet in proper context for that. They had in mind there the matter of requiring the officers and members to register and to divulge certain information regarding their Communist party connection and responsibilities and duties.

I recall that after this case was affirmed and there had been considerable speculation over the years in the papers that the act would be held unconstitutional, that the attorney general made a statement to the press that he fully intended to enforce the

provisions of the act. And later on, we did institute a criminal action against the party for failing to register and against Gus Hall and [Benjamin J.] Ben Davis, as I recall, officers of the party, for their failure to register the party. The Court of Appeals in the District of Columbia finally held in the case against the party that the Fifth Amendment was indeed a protection, and that the requirements of the act for the party or its officers to register would be in violation of their Fifth Amendment rights, should they desire to exercise their privilege against self-incrimination which they did exercise.

OESTERLE: At about this time, Mr. Hall and other members of the party were speaking quite a bit around the country, weren't they?

YEAGLEY: Yes, they were. This program started probably around 1961, as I recall, and it was not anything that was accidental or that just developed. It was a result of a plan adopted by the party, as I recall, through a meeting of its officers or, perhaps more likely, the executive board, when, after some discussion, it was agreed that they should endeavor to get to the youth of the country and that the best approach to this would be by endeavoring to get speaking engagements on the various campuses across the country. Although the leadership realized they needed more members and they needed particularly young members, this program was not designed as a membership drive at all, nor did they intend to sell the party program, for they realized full well that this could not be done in the course of one short speech on one campus.

Rather, they had hoped to have an opportunity to discuss some of the philosophy of Marx and Lenin and some other things that the party stood for, with the thought in mind that most students didn't get this in their classes. Their real objective, as they had noted at their meeting, would be to raise some questions and doubts in the mind of American youth, along the lines of various political and socialist views that the party believed in.

Later, the party leadership came to the conclusion that the program was extremely effective. I don't remember the total number of speeches they may have made during, say, the last nine years, but I think the first year they made in excess of fifty appearances on college campuses, and perhaps a little higher average than that was maintained for the next few years at least. And I think they still are doing this, but on a less frequent basis, now.

We were never able to conclude or to make an estimate as to just how effective the program was, and it makes one wonder now, in view of the developments on campus in more recent years and the development of such organizations as the Students for a Democratic Society and other so-called revolutionary movements, one wonders what the effect of these speeches may have been. I recall reports we had that some of the speeches, that the students didn't listen to them any more attentively than they might listen to Spiro Agnew. There were catcalls and boos and hissing at several points through their speeches, although there also always was a small group present that seemed to be more than interested, you

might say, and favorably disposed towards the speaker. But as far as I recall now from the meetings we had reports on, and that was only a fraction of them, that the majority of the listeners were not impressed.

OESTERLE: How many petitions did you serve?

YEAGLEY: In reference to the party membership, the act provided that if the party failed to register and disclose its officers and members and if the officers failed likewise to register that the party members each became obliged to register for themselves, reveal their party membership. And of course, no one registered. We adopted the policy in the [Justice] Department that we would not attempt to file proceedings against every known party member but we would only proceed against what you might call the party leadership. I don't remember how many petitions we first filed when Bobby Kennedy was there, but I think all in all, there were a total of about forty-five petitions filed against leaders of the party, for the purpose of establishing their membership and knowledge and activity, and to get an order of the board for them, requiring them to register, after which the government could, under the terms of the act, prosecute them if they did not register.

We brought a test case against [Roscoe Q.] Proctor and [William] Albertson for their failure to register, and eventually lost this on the Fifth Amendment grounds. We had hoped that, thought that we might overcome the Fifth Amendment problem in reference to the members, since we had shown, through the board

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proceeding by government evidence, their activities in the party, their membership in the party position, and we didn't feel that there was any personal incrimination involved on their part, since the government already had evidence, and brought it out in the board proceeding. But we lost the case on the Fifth Amendment ground.

OESTERLE: After losing the case, did you feel that you'd really taken a step backward in terms of the mandate of the Internal Security Division?

YEAGLEY: Well, no. We, of course, have to follow the decisions of the Court, and make our policy and prosecute a program in light of what the law is and the Court decisions. I might observe here that, as you probably know, there were a great many people that felt that the Subversive Activities Control Act was useless and of no help at all in combatting the Communist movement in this country. I could never agree with that appraisal, and I doubt that any of the lawyers in my division would agree with it either.

One reason is that it had a very disruptive effect on the Communist party national and state leadership. We always felt that they went overboard in worrying about the act. For example, as we saw it, the national leadership spent more time discussing how to resist the act and how to fight the act and what to do about it than they did on affirmative party programs. It just seemed that the act annoyed them so much--I think the word annoyed is better than feared; I'm not so sure they feared it as that it

worried them and annoyed them so much that it'd always come up for discussion at all their meetings. It was ridiculous as we saw it, the extent to which they went to discuss the provisions of the act, their attitude toward it and what they were going to do about it. We always felt it had a tremendously disruptive effect on party planning, party operations.

I think it also had a serious effect on new members, on any membership drive they might have. There's no way to prove this at all. Of course, everyone knows that party membership has been falling off for years, ever since 1950, say--maybe '49; I would think '50 maybe is when it started. It's fallen practically every year. It's difficult to estimate it now, in recent years, but I would say it's fallen off every year despite Gus Hall's claims to the contrary. And I would only have to say, it's my considered opinion, that this had an effect on new members as well as existing members--the question of joining the party. We would like to think, and there's no way to prove this, that the evidence brought out at the basic hearing before the board in 1950 as to the nature and purposes of the Communist party, much of it by former party officers and leaders, was in a sense educational to the American public. The sophisticated scholar, of course, said there was nothing new there, and of course there wasn't.

We weren't trying to fabricate evidence; we were trying to produce, or bring out, what in fact existed, but existed somewhat in a clandestine manner, and was not well known publicly. And we

think that this had a tremendous effect on the average American citizen, who was not a scholar in this area, but who was well enough informed or interested to read the newspaper accounts of the testimony and the evidence brought out before the board that went on off and on for more than a year.

OESTERLE: I don't know if it makes sense to try to put this in any kind of percentage terms, but how much of the work of the Internal Security Division, through this period 1961, was concerned with the American Communist party and/or its linkages between the Communist party and front organizations?

YEAGLEY: Well, the best, most accurate source for that, of course, would be our budget hearings. But I don't recall that we ever had a large number of lawyers assigned to this work. Any given week we might have what might have been a special project or drive to go out and interview informants. The way it was worked--if a supervising lawyer in the division thought that a certain organization not only was a Communist front, but that the government would be able to prove it before the board and that it was one we should proceed against, we would have usually one lawyer--it could have been two on a big case if our files were voluminous--but usually it'd be one lawyer to write what we would call a summary memo--you might call it a prosecutive memo, even though this wasn't a criminal proceeding.

It would be for a civil petition for the board for determination that it is a Communist front organization. If his memorandum

indicated that it was in fact a Communist front organization and that there were a number of witnesses--potential witnesses-- that might be used to establish this, then we would communicate with the FBI [Federal Bureau of Investigation] to determine the identity of these people--who they were--how many of them were party members, and what ones might be available to testify. And if it still looked, after we heard back from the FBI, that there was a case there, then we would at that time involve more than one lawyer; ordinarily it would take him too long to go around the country interviewing the witnesses.

We might send out two or three lawyers, say, for a week, to interview these witnesses, in order to determine how much of the story they had to tell was in fact admissible evidence, how much of it was direct knowledge of their own as distinguished from hearsay--we often found, of course, that much of their knowledge was hearsay and we couldn't use it--and to determine something about the person himself and what kind of a witness he would make. And then when this information was obtained and brought back to Washington and written up, the determination was made as to which ones of these witnesses we could use and would their testimony make a case.

I don't recall at any time, as I indicated, that we had a large staff on this work. This work was performed by lawyers mostly called the civil section, as distinguished from the criminal section. The civil section also carried on other functions

and responsibilities besides this work. I think when I left there we had only four lawyers on it and I think we only had four lawyers and that was the shop for the preceding three or four years, perhaps. We always had the ability to loan or detail another lawyer or two in there if we had a case that we were particularly interested in making, but it was basically a small operation. The big manpower operation in that division preceded Bobby Kennedy and ended about that time; as a matter of fact that was on the Smith Act program of the 1950's.

Those cases took a great deal of work, both legal and evidentiary, and interviewing witnesses. And there was a large staff on that during the early fifties and mid-fifties. But this other program--probably because we didn't have a large number of cases at any one time--what we were doing was working on a few cases, but bringing in new ones gradually over a period of time. That sort of an operation just doesn't require a big staff. If we'd have brought the forty-four or forty-five membership petitions at one time, or the twenty-two or twenty-three Communist front petitions at one time, it would have required a large staff, but it wasn't done that way. They were spread over a few years.

OESTERLE: In your experience in dealing with some of these cases and the affairs of the American Communist party, did you ever gain any insight into how the party was funded?

YEAGLEY: No, not a great deal. The party, it was clear, had very close ties with the Soviet Union, and was continually sending representatives over there for international meetings, conferences,

Even for no apparent meeting or conference; there might be an occasional officer go to the Soviet Union for three or four days, maybe sometimes for three or four months. They didn't seem to make much effort to keep those trips secret. There was an exception occasionally, where they would--we would find that they'd kept it secret that so-and-so'd gone to Moscow, and we'd, the FBI'd happen to find it out later on. But most of them would apply for a passport openly and get the necessary visas, depending on what countries they were going to--usually only the Soviet Union; sometimes they'd go to others.

The party was notorious for always taking a Soviet position on any disputes with any other party--or any other country. Every once in a while, they would discipline the party of Italy or the Communist party someplace else, or they might be in a dispute with a Communist country behind the Iron Curtain--Soviet bloc, so to speak. And we never knew the party to take a position contrary to that of the Soviet Union. One of the most difficult issues they had to resolve was with the government and the Communist party of the Soviet Union's position towards Israel. You can see from reading on the list of officers of the CPUSA [Communist Party USA] over the years, for some reason a great many of them have always been Jewish. And there was always a minority that found this particular policy difficult to swallow. And they had some rather bitter meetings over this issue over the years. But eventually on every occasion, the secretary would come out in support of the position

of the Soviet Union.

But on your question of funding and finances, I don't remember the details or facts now in any given situation. There were occasions when we were satisfied that some money had been obtained from the Soviet Union. I don't suppose that we could ever prove it in any particular case; there's no way to do it. We knew generally that the party spent more money than we could account for in its income--known sources of income, such as the Daily Worker, for example, or membership fees, or assessments. They're great ones for assessment; they're always passing the hat. But even including all of that, they were spending more money than we could account for, but not in, what you would say, tremendous sums; I'm not talking in terms of a million dollars or five hundred thousand dollars. But, they seemed--two points I have: they seemed to have more money than we could account for in their income; but more important, they always seemed to be able to dig up twenty-five thousand or whatever money they might need for some special project or for some crisis they might be facing, they always managed or seemed to get the money somehow. Their big problem was the Daily Worker, which finally went under and they quit publishing for awhile, then came out later on as the--what do they call it now?--World--no, what is it?

OESTERLE: I'm not sure.

YEAGLEY: Can't even remember it now. The People's World on the West Coast seemed to have more success financially, fewer problems. They call

it the Daily World now, I shouldn't forget that. I think it's the Daily World.

OESTERLE: How about the CP's ties with unions in this country, especially the maritime union on the West Coast? Was this a source of funding, perhaps?

YEAGLEY: Well, I don't recall that we ever established that. It could have been, of course. The union did have money. It's my recollection now that the union often spent its own funds in a way that might have coincided with party interests. This isn't to say that they didn't give the party any money, because they probably did. I couldn't prove it, and whether we ever could, I'm not quite sure. Harry Bridges was very valuable to the party over the years, most of the time. They used him to good advantage.

On the other hand, I think that's where communism flopped in this country. They tried to follow the teachings of Marx and Lenin, to build a working man's party, to build a working man's government, Communist government based on the proletariat. And the proletariat just didn't go for it. They may have for a while, when they claimed eighty or eighty-four thousand members. It seems quite clear that they had that many at one time. But, there were very few unions that really fell for communism. And, now, I would say, today, the party's big problem is that it has not infiltrated the working class, to any successful extent, to any major extent. I think the country's economy and its level of education in relation to the working man, the average working man, has

apparently blocked communism; it had the greatest success among the intellectual or the more educated people, maybe the middle class people.

And, if the student radicals today understand Marxism--I'm not so sure that they do--they're revolutionaries--but if they do, why, they're certainly not working class people anyway. The party has just been a complete flop, I think, in infiltrating the working class, the lower paid people in the labor unions. I suppose back in the fifties, they did have influence in several unions. They had gotten into the unions at that time, but they were unable to hang on. Today, I can't think of a union today in which the Communist party would carry any influence at all.

OESTERLE: Does the Progressive Labor approach represent a kind of revisionist Communist party organization?

YEAGLEY: Well, they wouldn't call themselves revisionist because they were organized by a group of people who were members of the Communist Party USA, and had left it--incidentally about this same time, 1961, I think--who left it because they thought the CPUSA was revisionist. They left in order to form a new organization that they would have follow up their understanding of the teachings of Lenin. They thought that it was not militant enough, it was not revolutionary enough. And they would not consider themselves revisionists. And they have stuck pretty much to that theory. I think they first called themselves Progressive Labor movement, and then they became the Progressive Labor party, and it spread--

they have some members even on the West Coast now. There's some indication that they're more sympathetic towards the philosophy of Mao Tse-tung than they are of Soviet leadership, but they're not, as far as I know, affiliated in any way with the Chinese Communist party or the Chinese government. It's merely that they think it represents more the teachings of Communism as they understand it. I don't think that I would call them revisionists necessarily either. It's just that they believe in a little more militancy. They believe, for example, in more work with the working man--more infiltration of labor unions. I don't know that they succeeded too much in that either. I'm not so sure but what their membership is pretty much-white collared.

OESTERLE: Yeah, they've been, to my knowledge anyway, more active on college campuses, at least at San Francisco State College than the Communist party, and, again, trying to develop talks with union members who were on strike on the West Coast in general about [inaudible] case, and also in terms of some of the events that have taken place that have rallied students--the Cambodian incursion, for instance, earlier this year.

YEAGLEY: Well, they believe more in the old Lenin theory of working with the laboring class and the proletariat. And you may recall, that was one of the disputes. Even the SDS [Students for a Democratic Society]-PLP faction--in other words, the Progressive Labor Party--controlled a substantial faction of the SDS before the split came. And one of the things they split on was the question of whether

or not the laboring man was essential to the Revolution, or had this country changed so much as to make invalid the old Lenin thesis.

And the Bernadine Dohrn-Mark Rudd--that element in SDS--were so anxious to get going with the Revolution and not wait to join up with the laboring class that they split off, and the PLP-SDS faction still adhered to this theory, that you must have a working class base or you must--the scholars and the students must work with them.

That was one of the things that brought about this split in the SDS in 1969 which was, I think, a very fortunate thing. They had been rolling along so smoothly, you might say, during '66, '67, '68 '69 and had so many chapters around the country that the unified tight leadership of that group posed an entirely different situation than we have now, with them having split into at least three factions now, and the Weathermen faction has gone underground, so that I would suspect that they're not getting many new members; in other words, they're not growing, and the very split itself has hurt the other factions. I think, though they still exist and are functioning.

Strange thing, we had, I'm sure it was '61 that this group left the party in order to organize the Progressive Labor party, and I believe it was in '62 that the Students for a Democratic Society was first organized up in northern Michigan. It wasn't organized

as quite a revolutionary type organization. It didn't have the revolutionary base--I would think it was more of a socialist base. As I recall, a good many of them, they broke off from the League for Industrial Democracy for example. But that's their origin; that's when they were first organized and it was also back about '61 that the Communist party set out on their educational program with a speaking program on college campuses. I couldn't begin to explain why these things began happening at that time, but time-wise, they're pretty much related.

OESTERLE: There's no linkage between the funding of some of the student organizations--SDS as being one of the parent organizations--at least the factions that broke off from SDS, and the Communist Party, is there, that you know of?

YEAGLEY: No, the SDS today--I think all factions of the SDS today--look down upon Communists as--what did Bernadine Dhorn call them? Well anyway, they look down on the Commies as a bunch of old fuddie-duddies. At their meetings, if you talk CPUSA, the speakers, or those discussing it, would mostly ridicule the Communist party USA as being inept, nonrevolutionary, not militant.

Now, it's true that there are some youngsters who are members of both the Communist party and the SDS--very, very few; for example, take [Michael] Mike Klonsky. His father was a very active organizer for the Communist movement in Pennsylvania and I think was one of the defendants in the Pennsylvania-Smith Act case. Mike, the boy, became an active leader in SDS. I can't

prove his membership in the party, but I was satisfied that, in my own mind that he had at one time been a member of the party or at least sympathetic to his father's membership and activities. But I don't think today that Mike Klonsky is a CPUSA type of Communist. I wouldn't want to put a label on him. I think he too has come to think that the party is a thing of the past.

And that's the way almost all the SDS leaders are; they call the CP leaders "squares"; they have all sorts of names for them. They try to make themselves--the SDS people--over and above communism as espoused by CPUSA. They don't endorse the Mao Tse-tung type either, but they'd be more disposed towards that type of Communism. As you know, they've indicated that they have a great deal of admiration for the movement in Algiers and for [Ernesto] Che Guevera and Cuban communism. But if anyone had the opportunity to talk to thirty SDS leaders in depth, if they could get them to talk honestly, they would find that each one of them had somewhat different views than his associate. They're really not that closely in accord on political philosophy. They can agree to be against our form of government; they can agree that we're imperialists; they can favor North Vietnam and sympathize with North Vietnam; they can agree to be against capitalism. But they would have an impossible time setting up an affirmative program as to just what type of government they would want to establish themselves.

OESTERLE: Angela Davis, who is linked with the Marin County courthouse bombing recently, which supposedly represented her support for the Soledad brothers--she's gained a great deal of support among

the radical students on the campuses, and recently, Gus Hall has come to her support, and I believe that she's being defended, or represented, at this point by the attorney that represents the Communist party. I wonder if this isn't an attempt on CPUSA to gain the support of some of the more radical students . . .

YEAGLEY: Yes.

OESTERLE: . . . especially by a very popular, glamorous figure like Angela Davis.

YEAGLEY: Yes, I would agree with you on that. It is, I would think, an attempt for them to gain some support, and maybe to get back in favor with the young revolutionaries. On the other hand, though again I don't have the evidence, it is my opinion that Angela Davis was a member of the Communist party in the state of California. I'm not saying that she is today or that she was last year but that she was at one time. So, there was a connection there, a common bond, before this trouble arose, before the decision was made to support her in this matter. In a different climate under different circumstances, I think they would have abandoned her, because she had, assuming that this charge is true, she had engaged in activities that the Communist party would not endorse or support. She probably, five years ago if she did this, would have been expelled from the party, I would think.

The party believes in Lennism and they believe in revolution by force and violence, but they don't believe in independent or spasmodic violence; they don't believe in it being uncontrolled

or what they would consider unrelated to the movement. They believe in the step-by-step progressing to the ultimate revolutionary stage and that the country, certainly not now, is ready for revolution. And they do not believe in the violence of the Weathermen faction at all as doing any good. They look at it as being harmful to the movement. Yet she had participated in something more of that type, which the party would not normally endorse at all. So I think your point is a very good one, that it's very interesting that despite that, they have still, as far as I know, not kicked her out of the party, if she was still a member, but they have come to her aid and defense and it must be for the reason that you've indicated.

OESTERLE: [Junius I.] Scales case was decided on the same day as the Communist party case.

YEAGLEY: Yes. It was decided by the Supreme Court on June 5, 1961. That was a test case, you might say, of the membership provision of the Smith Act. There was another case, the [John F.] Noto-- N-O-T-O--case, also of the same vintage, that the government lost. But the Scales case we won and the Supreme Court affirmed the conviction of Scales under the membership clause of the Smith Act.

It may be of interest to some that, having won that case, the government did not bring any other prosecutions thereafter under the membership clause. The reason for that, you might say, is twofold: first of all, when the first Smith Act case was

brought, back in 1950, against the national leadership of the party--maybe, I guess it was '48--it was pretty much of a warning flag to the party leadership that they better reevaluate their party schools and their teachings. They're intelligent men and they realize that they themselves are under indictment on a serious charge. So beginning in '50, they began to moderate their own internal teachings and activities; the party schools changed completely. So by 1961 when we won the Scales case, we didn't have any new or fresh evidence of a conspiracy or of an individual member teaching and advocating the violent overthrow of the United States government.

A second reason, this was, the problem was magnified by the Supreme Court's decision, even though we got an affirmance, the Court's decision here, as well as earlier in the conspiracy case of [Oleta O'Connor] Yates, tightened up the requirements on a prosecution as to what they must establish in order to sustain a successful conviction, and get an affirmance on appeal. We felt that the requirements placed on the government by these two decisions were much higher than what we had earlier understood the replacements to be, say, back in 1950. So the Court was not holding the act unconstitutional, but they said in order for the Court to sustain its constitutionality in a given case, the government is going to have to come up with a strong, clear case that would take the case beyond the protection of the First Amendment into the area of inciting to action, and proving or establishing the

clear and present danger existing at the time before the Court would affirm a conviction in this area. So between the judicial language and the dwindling of our proof, we didn't have fresh evidence. We had no cases to recommend to the attorney general to bring thereafter.

OESTERLE: Are there any other cases that come to mind in 1961 that might be of interest?

YEAGLEY: No, I don't. . . . Just going through this annual report, I don't see any here that ring a bell, or anything of particular interest.

OESTERLE: Do any of the items, perhaps, bring any meetings or conference to mind that you might have had with the attorney general?

YEAGLEY: No. I'm sure I had some on some of these, but I don't remember them.

OESTERLE: We'll get into 1962 and '63 in the next session, but, off the record, you mentioned that you have a story about Justice [Earl] Warren and the Warren Commission Report. This might be a good point to report that.

YEAGLEY: Yes. This is nothing of major importance, but it's a--I think a very interesting item, maybe a little sidelight. But because of embarrassment to others--at least my source--I would have to restrict its use for something like ten years or something like that. But a good friend of mine, who worked on it at the Court, told me at the time the study, after the assassination--I should go back--before the assassination of Kennedy, told me that when

Earl Warren became chief justice and was interested in setting the course for the Court and he was thinking of different policy matters, he apparently advised the members of the Court at that time that he didn't think that any of them, including himself, as justices of the Court, should hereafter indulge in any extra-curricular activities in the nature of governmental functions or private work, and he specifically cited the war crimes trials, in which Justice [Robert H.] Jackson had participated extensively and the Pearl Harbor Commission, where Justice [Harlan F.] Stone had participated, and he indicated he didn't think that that was the proper role or function of a justice of the Supreme Court. When the Kennedy assassination occurred and President [Lyndon B.] Johnson set up the Commission to investigate it, by prevailing upon Justice Warren, Chief Justice Warren, to head up that commission, he put the chief justice in the awkward position of being the first member of the Court to break the very rule he had been instrumental in establishing in the Court.

Apparently the other members of the Court resented the fact; if they didn't resent it--that may be the wrong word--they disagreed with his decision to accept that position. And they got together, as I understand it, and passed what I would understand to be a resolution; I don't know what name they might put on it. Anyway they agreed that they should not permit the chief justice to use any Court facility or any Court personnel for the work of the commission. It so happened that the chief justice, as chairman of the commission, had already scheduled a meeting, the first

meeting of the commission to take place here in Washington, and of course at the Supreme Court building. I don't know whether he would have had it in the East Conference Room or in his chambers, but he had to, because of this action of the other members of the Court, try to get other space through the General Services Administration. And when they came up with a space in a temporary building on the Mall, he was a bit upset to say the least. I think they found that space as being not too far from Capitol Hill probably. I don't know which building it was; it may have been temporary T, as I recall he said. Anyway, he was in a difficult position.

As I understand my friend, who worked on the Court, remembered the Veterans of Foreign Wars building was nearby, was catty-cornered from the Supreme Court and very handy--I think it's on Second and Maryland, Northeast. And some of the upper floors were occupied by another governmental agency--I could find out; I've forgotten which one it was, but my friend thought he would be able to maneuver something there and he did. He managed to get the head of that agency--I think it was a Cabinet officer--to move enough people out of that area in the Veterans of Foreign Wars building, to provide space for the commission to work in, and to do it quickly enough to give them a meeting place for the chief justice's first meeting of the commission, which was done, and that's where the commission operated from. I believe that the Court personnel did not work in any way to assist in the commission's work, but of

course, the Department of Justice did cooperate, and set up a liaison office and provided a good many man-hours of work and helping to partly transmit FBI information to the commission and set out leads and so forth.

OESTERLE: I wonder if this story got back to President Johnson. One would think that if he'd heard about this, he would have arranged special facilities, especially since it was at his behest . . .

YEAGLEY: I think that's the reason that my friend was able to get the Cabinet officer to give them the space. I think he knew that if he didn't do it, that the chief justice would talk to Johnson. I think they felt it would be better to do it otherwise, and not to go to the president unless they had to, would be my speculation anyway.

OESTERLE: This might be a good stopping point today and . . .

YEAGLEY: Good.

OESTERLE: . . . we'll pick up in 1962 and 1963 in the next interview.

YEAGLEY: All right.