

Abram Chayes, Oral History Interview—JFK#2, 6/22/1964
Administrative Information

Creator: Abram Chayes

Interviewer: Eugene Gordon

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Biographical Note

Chayes, Staff director of the Democratic Platform Committee (1960) and legal adviser to the Department of State (1961-1964), discusses Cabinet and other appointments in the Kennedy administration, including the reasons why Dean Rusk was chosen over Chester B. Bowles as Secretary of State; the appointment of John F. Kennedy's Solicitor General; and use of executive privilege, among other issues.

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Abram Chayes

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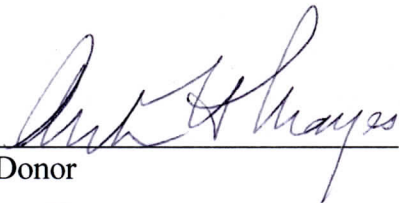
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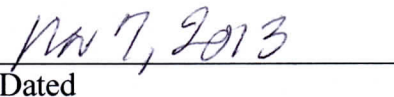
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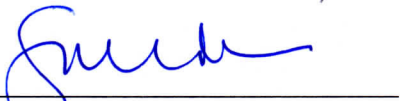
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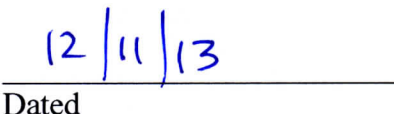
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Abram Chayes—JFK #2

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Second of Four Oral History Interviews

with

Abram Chayes

June 22, 1964
Washington, D.C.

By Eugene Gordon

For the John F. Kennedy Library

GORDON: The last time we got up to about just after the convention, it seems to me, and you had some thoughts about discussing some of the appointments that were made in the interim—I guess the interim between the election and the Inauguration.

CHAYES: Yes. Well, as you know, once the election was over and the victory confirmed, the great talent hunt began. A small group in Washington, in fact, were sort of the command headquarters

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for it. Harris Wofford [Harris L. Wofford, Jr.] was on that, as you recall, and Adam Yarmolinsky and Sarge Shriver [R. Sargent Shriver, Jr.] and several others. I guess Tom Farmer [Thomas Laurence Farmer] was among them, and so on. Really rather unknown people, when you consider it, but they did begin to gather names from all over.

I wrote Kennedy [John F. Kennedy] a congratulatory letter very shortly after the election, and he wrote back. It is interesting to me, before we get to the appointments, to see the things that were on his mind at this point, right after the election. He wrote back asking me to get to work on a conflicts of interest program and also on the question of developing legislation or ideas about how the federal government could help in financing the presidential

election campaign. He said he didn't like the idea of the candidate having to go around with his hat in hand all the time.

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So you can see kind of the things that were on his mind.

GORDON: Was this current bipartisan effort? I noticed in the paper that Truman [Harry S. Truman] and some others are involved in an effort to raise money on a bipartisan basis for.... That wasn't one of the issues.

CHAYES: It may have some connection. In fact, we didn't pursue that too strongly. It was rather a hard thing to do and, of course, I got into a different area. I did set up a conflicts of interest panel headed by Judge Magruder [Calvert Magruder]. Bay Manning [Bayless Andrew Manning] was on it, and Jeff Fordham [Jefferson Barnes Fordham] of the Pennsylvania Law School. I set that up working with Dick Goodwin [Richard N. Goodwin], and they did produce a report. Out of that report grew a memorandum produced by the White House on conflicts of interest, an executive order, and finally the new legislation on conflicts of interest.

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GORDON: Was Kennedy worried about his own position?

CHAYES: No. As I recall, through his father [Joseph P. Kennedy, Sr.], he consulted Rod Perkins [Roswell B. Perkins], a classmate of mine and a partner in a big New York law firm and Rockefeller's [Nelson A. Rockefeller] special assistant when Rockefeller was governor of New York. But Rod headed the committee of the Bar Association of the city of New York that studied conflicts of interest and had made a report on it. He was thus the chief conflicts of interests lawyer in the country. In fact, I tried to get him to work on this panel, but he couldn't do it, partly because he had been consulted by Kennedy. They made trust arrangements which at least took him out of the personal management of his money. I don't know if he ever managed his money personally.

GORDON: Was his concern connected, as it seems to be from the way you bring it up, with recruiting good people?

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CHAYES: I am sure that is part of it. As you know, the old conflicts of interest laws were very hard particularly on lawyers, scientists, and other people who have this kind of professional relation and then try to be in the Government. So I think it was in large part related to first, the problem of getting good people. And secondly, the Eisenhower [Dwight D. Eisenhower] administration had had quite a few scandals, as had the Truman administration before, partly because the statutes were seriously outdated. And

nobody had put out any executive regulations governing the problem in any systematic way. But that was just an interesting thing to see some of the things that were lying at the top of his mind very shortly after he was elected.

But the main thing, of course, was putting together the team. He called me down to Washington. It was either the Wednesday

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just before or the Wednesday just after Thanksgiving. I have the feeling it was before, after the election. He was still in the Georgetown house. And his total energies and effort at that time were directed to the development of the personnel of his Administration. With me he went right down the list of Harvard and MIT people asking me what I thought about them and what I thought they were good for. I had stayed overnight with Chet Bowles [Chester B. Bowles], and of course the question of the Secretary of State was on everyone's mind. I was strongly for Chet, and we talked a lot about how I could put in a pitch for him. But when I arrived at the meeting, the President said: "I don't want to hear anything about Secretary of State. I know you're for Chet. But I'm not ready to make up my mind yet on that."

That was the first time I heard,

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Ken Galbraith's [John Kenneth Galbraith] name mentioned for India. I think Kennedy was the man in the conversation who had put it forward so he probably had been thinking about it before. It may have been that Galbraith put the suggestion in my mind or in Toni's [Antonia H. Chayes] when he knew that I was going down there. There was a lot of talk of his being appointed to fill Kennedy's vacant seat in Massachusetts. And I think he would have liked that, too. But Kennedy was certainly thinking about the India thing by that time. He asked me what...

GORDON: It seems like a somewhat remote thing—I mean ambassadorships, generally.

CHAYES: Oh no, I think he was thinking of those. They are obviously part of the patronage, but also, if you remember, there were a whole series of very strong Kennedy appointments in the ambassadorial field from the academic field or from other phases of life that were

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designed to put a new look on the face of American diplomacy abroad. In fact, those ambassadors did become known, for instance, in Latin America as "Kennedistos," and the notion of an ambassador going out who had had a personal relationship with the President and is regarded highly by the President is an important thing. At that time, there were a lot of people being considered for embassies who later got them. Bill Attwood [William H. Attwood], Jim Loeb [James I. Loeb], Linc Gordon [Lincoln Gordon] and others. Ken Young [Kenneth T. Young].

GORDON: Many of these appointments were thought about even before there was a definite Secretary of State.

CHAYES: Sure. But this was just going down the list of Harvard people whom he thought he had some obligation to. Something of that kind. He said, "What should we do with Schlesinger [Arthur M. Schlesinger, Jr.]? What does Arthur want?"

[-83-]

I said that I thought he would be happy with a key to the White House, and I guess that is, in effect, what he got. He said "of course, Paul Freund [Paul A. Freund] will be Solicitor General." No, he turned it the other way around. He didn't say that. He said just in a sentence, without any opportunity for affirming or denying it, "The best man for Solicitor General would be Paul Freund." Of course I was fully prepared to agree with that. He said, "How do I get him?" I said, "I would be perfectly prepared to go talk to him, but I think you get him by calling him up on the telephone and asking him." Well, he asked me to go sound out Paul and see what the situation would be. He also wanted Paul Samuelson [Paul A. Samuelson] for Chairman of the Council of Economic Advisors, and he asked me to see about Paul Samuelson and see what that situation was like. So I took those two commissions back to Cambridge.

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GORDON: Why you in relation to Samuelson? Samuelson was an MIT man.

CHAYES: Well, I knew him well and had known him very well in the summer when we had been preparing material, as I said, for the campaign.

The President also was thinking very seriously about Jerry Wiesner [Jerome B. Wiesner] for Science Adviser at that time, and we had a long discussion in which I pressed Jerry's claim very hard. But the President was not yet ready to decide. We worried about Jerry's vulnerability to charges of softness. When he finally did make up his mind, it was so late Jerry had some doubts about taking it, and I had a number of sessions with him in Cambridge urging him to do so. Ever after he kidded me about being responsible for his taking the job and, thus, the cause of all his troubles.

GORDON: You know, one thing that puzzles me, to go

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back to this period just a moment before we leave it, just after the election. How did the President feel about his election? Did he feel it was a squeak-through? Did you ever get any clue?

CHAYES: Oh yes, I think it was perfectly apparent, even to me, and I saw him only once. well, I saw him again in January, so I saw him twice between the election and the Inauguration. But now that you mention it, I think he said something to me about the closeness of the margin, and it is perfectly clear that he did not feel that he had a mandate. And he was rather disappointed, I think. At the same time, he had this sense of having to put together this rather brilliant, fast-moving team of people.

GORDON: I thought of it, personally, as rather a greater victory perhaps than it looked at that time.

CHAYES: Well, you can argue that one way or another.

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I have also said that if Kennedy had had to run again with the whole Catholic issue out of the way, I thought probably lots of places where he did not too well, he might have done a good deal better. In other words, I think the net effect of the Catholic issue was that it hurt him because it added to his majority in places where he was winning anyway, and it cut him down in the places where he was weakest—in the rural areas in the Midwest and the Mountain States where people were really troubled by the Catholic issue. So I think you might have interpreted the thing as better than it was or better than it seemed. But it is funny about politics, you know, you count it at the ballot box and you can interpret it all you want, but the effect of the whole thing was certainly to give him less of a feeling of freedom of action than he would have had if he had won by a much bigger amount.

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GORDON: The other thing is I wonder about the setting where this conversation you mention took place when you came down around Thanksgiving time.

CHAYES: Well, it was in this house on N Street in Georgetown. It was very pleasant. We walked into the living room in the afternoon. Kennedy was having a nap after lunch. George McGovern [George S. McGovern] was in there at the same time that I was, going to talk to Kennedy about the Food for Peace job. He was, in fact, offered the Food for Peace job that day and eventually took it. He, as you know, was governor of South Dakota who lost in 1960 and is now senator. McGovern's business got out of the way very quickly, and then Kennedy brought me into the living room. It was a nice comfortable expansive living room. We sat in two couches across from each other at the side of the fireplace. Tea was brought in at the time. We had tea—no drinks. He was very lively,

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energetic, moved quickly from subject to subject, from one person to another. Then when it was over—we spent an hour and a half, maybe two hours, talking—we went out on the steps. There was a crowd of reporters around the steps, and he just said that he had seen me and that

we had talked over possible people for his Administration. The reporters tried to get the names, and then I left. The street entrance was roped off, as you know. You had to be on the list of people who had appointments in order to get in. It was a very pleasant, actually exhilarating kind of November afternoon—and an exhilarating couple of hours, of course. I went back and talked to Paul Freund first. He immediately expressed some doubt about whether he would take it or not. He wanted to go home and think about it. He thought about it for some time. I called

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the President back. I don't think I talked then to the President. I must have talked to Harris or Adam, working through them. And the President called Freund. I think he called him a couple of times. Dick Goodwin was also very interested in having Freund as Solicitor General. And Freund kept debating within himself. He was in the midst of the Holmes [Oliver Wendell Holmes, Jr.] bequest, *History of the Supreme Court*, of which he was senior editor, and was doing the most recent volume of that. He was very reluctant to leave that. He had been in the Solicitor General's office as the Chief Assistant to the Solicitor General and felt somewhat that this would be more of the same. Of course, brooding over the whole thing was the fact that if he did become Solicitor General, he was very likely to be named to the Court. This was a fairly familiar pattern. And I have no doubt that if he had gone and

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become Solicitor General, he would be sitting on the Court today. I have no doubt at all that he would. This, to him, presented a kind of question of conscience. He is a very fastidious man, and the notion of doing something like that to get on the Supreme Court was something that he would have looked at with some concern. What I mean is: He wouldn't have wanted to take the Solicitor Generalship simply as a stepping stone to the Court. Well, at the critical moment, actually, he got a letter from Frankfurter [Felix Frankfurter]. Frankfurter had had the same issue before him because Roosevelt [Franklin Delano Roosevelt] had offered him the Solicitor Generalship in 1932. Roosevelt had been much more explicit, as had Frankfurter's friends, in saying that if he took the Solicitor Generalship, he would be on the Court. But Frankfurter turned it down. He said that being a professor at the Harvard Law School was enough distinction

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for him. Well, of course, later Frankfurter made the Court. This letter, the text I don't recall, but it did refer to this business and also made it clear that Frankfurter was against Paul leaving the academic life to come to Washington. I am quite sure this wasn't decisive, although it was reassuring, to Freund. Some people, the fellow who lives with him, Ernest Brown [Ernst J. Brown], thought it was the turning point. But in the end Freund did not accept. Then we had a long time that we were plumping for Archie Cox [Archibald Cox]. There were actually two or three people in the race. Carl McGowan [Carl E. McGowan], Morris Abram [Morris B. Abram], and Archie were the three. Carl McGowan has now

become Judge of the Court of Appeals of the District of Columbia. Morris Abram is practicing law in New York. He moved there from Atlanta and is connected with some UN commission as well.

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But I thought Archie certainly deserved the Solicitor Generalship for the work that he had done in the campaign. And he had had a rather hard time of it because, as I said, the research group declined in stature and importance. And yet Archie was there. It was a very frustrating kind of experience for him during the campaign. I talked to Archie a number of times during this period when people were sweating out jobs. Archie took a very lofty attitude that Kennedy owed him nothing and probably would offer him nothing. I kept telling him to sit tight and not to refuse anything before he had a chance. I think I knew a good deal more about the progress of the Solicitor Generalship and Archie's chances for it than he did at the time. The other thing Archie was being considered for was Under Secretary of Labor. And I am not sure he would have taken that if it was

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offered to him because he said that he would have had some misgivings about that. But, eventually, along in December the decision was made, and Archie did become Solicitor General. And I think it was largely made on the basis that Archie had identified himself early and strongly with the Kennedy Administration.

Oh, I forgot to say in connection with Freund one very interesting little bit. At the time, there was a great deal of speculation as to whether Kennedy was going to make his brother Attorney General. It seems hard to believe now, but at that time there was very, very sharp opposition to this among, certainly, the academic lawyers and really most of the serious professional bar. The thought was that Bob [Robert F. Kennedy] really didn't have any strong legal background for this, and that it was very much of an instance of nepotism in the Administration.

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Kennedy once, when he called Paul, thought that this was what might have been holding Paul up; that Paul was afraid he would be named Solicitor General and then Bob Kennedy would be named Attorney General; that that would be embarrassing to Paul; and that Paul would feel he had been used to gild the Attorney General. So Kennedy told Paul that if he took the job, accepted it, it need not be announced until after the appointment of the Attorney General. Then if he had any problems about the Attorney General who was appointed, he could withdraw his acceptance. It seemed to me this was fairly remarkable from Kennedy. Paul handled it with his usual immense skill and gentility. He said that if he accepted the job, he would be glad to serve with anyone that the President would appoint for Attorney General. And so that was a wonderful little standoff. But it does show, I think, the

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kind of length that Kennedy was willing to go to get the person that he regarded as the best in the country for a particular job. Now once he lost the best in the country, as he did when he lost Paul, then he was prepared to play a certain amount of ordinary kind of politics in trading off people and so on. But if he had anybody that he really thought was best in the country, as he did with Paul, there wasn't anything that he wouldn't do to get him.

GORDON: Actually his obligation to Paul was much less than his obligation to Cox.

CHAYES: Oh yes, almost none really. I suppose he had publicly come out for Kennedy, but not in any big way. And it didn't mean too much anyway. As I said before, he had written Kennedy a couple of letters during the Senate period, and that was all fine. But as you say, Cox worked very hard for him, had gone down and spent a long, hot summer in Washington, had worked on the Kennedy labor bill, which was the one major legislative

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accomplishment that Kennedy had. And if you take all of that put together, it was quite a lot to Cox's credit.

GORDON: Did the President-elect talk to you about an appointment at that time?

CHAYES: Yes, he talked to me actually in Washington when I saw him. He said, "Well, what do you want?" at the end of the long list. And I had not really known that I wanted anything as badly as it turned out I did want it. It is a funny thing. I had kept telling myself during the campaign and before that I was just doing this for the ride and for the fun of it, and I expected to stay at Harvard—of course, unless something came along or something that I couldn't possibly turn down. That turned out not to be true, as I suppose it wasn't with a lot of people. He said, "Why don't you come to the White House and work in the White House." I said I didn't think I wanted to do that,

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that I wanted to get some sort of responsibility as something other than a bright young man. And I suggested then and there the Legal Adviser in the State Department. I asked that because, first of all, I thought that Bowles was likely to be in the Department and that would be a close relation and an important one. But I knew about the Legal Advisership from Butch Fisher [Adrian S. Fisher], his days when he was something of a hero to us; we were in law school and just out then when he conducted the hearings in the McArthur [Douglas MacArthur] firing and he had also done some of the work against McCarthy [Joseph R. McCarthy]. As I say, he was quite a hero to us. And that is all I really knew about the Legal Adviser's Office. Also, it seemed to me it would be a decent thing to leave the law school for, whereas there were some things that it was not really possible to leave the law school for.

GORDON: Did you explain this to the President?

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CHAYES: No. Actually I just tossed it out there and didn't say much more about it. At that point the President said, "Why won't you come work in the White House? All of you people want to go somewhere else and have an operation of your own. It's going to wind up so that we won't have anybody good in the White House." Well, of course, events belied that. I don't know whether I made any other suggestion at all, but really that is what I wanted. I campaigned assiduously for it over the next couple of months. In fact, it was not at all clear that I was going to get it. I didn't know Rusk [Dean Rusk] at all. If he had had a real candidate of his own, I probably wouldn't have gotten it, but it turned out he didn't have a candidate. He would have liked to have had Len Meeker [Leonard C. Meeker], who is my deputy, because he knew Len from his former turn in the Department where Len had been the lawyer for the UN section,

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and Rusk had headed the UN section. But Len's wife had just died, and he had three young kids on his hands. He didn't feel that he could take the responsibility so he asked that his name be withdrawn. There were a lot of other suggestions. Acheson [Dean G. Acheson] and Frankfurter, in particular, were opposed to me for what reason I don't know—Frankfurter, because he thought I ought to stay on at school. Acheson, I don't know why.

GORDON: How did they get into the act?

CHAYES: Well, you know, everybody was in this act.

GORDON: Was this the way it was with Kennedy appointments, that everybody got into the act?

CHAYES: Well, no. They were in Washington. They were circulating in the groups or the periphery of groups that had something to do with the appointing process. People were asking about this. Names got into circulation, got rumored about so people commented on them. I think

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Kennedy would listen very attentively for this comment both from the gossip circuit and in the press and so on. It wouldn't necessarily make up his mind for him, but he was very conscious of it and he waited, you know, to see what it was. Another reason that Rusk was concerned in this area was that, if you recall, he was appointed in December. Soapy Williams [G. Mennen Williams] had already been appointed as Assistant Secretary for African Affairs. Chet Bowles was appointed as Under Secretary. A number of other people in Rusk's entourage were just appointed by the President with not much consultation with Rusk. I think

Rusk may have felt the need to make an issue on one of these things. And the fact is that he finally made the issue on Walt Rostow [Walt Whitman Rostow], not on me. Walt was supposed to go originally to be head of the Policy Planning staff in the State Department.

[-101-]

Indeed, when I talked to Kennedy in Washington, Kennedy had made up his mind that this was the place he was going to put Walt. I am sure he had made up his mind to that. Rusk simply decided he wasn't going to have him which was rather strange since, in the interim, Walt has come back to be the head of the Policy Planning staff. That created a very serious problem for Kennedy because he had in fact offered the job to Walt. They had had a long talk about it, and Walt had had a talk with Rusk about it. And Walt assumed he had that job. It was one of Mac Bundy's [McGeorge Bundy] first services for the President that, when Mac was named as Special Assistant for National Security Affairs, the first thing he did was take on Walt as a deputy although Mac and Walt never really got along too well at Harvard and Cambridge, and it was perfectly clear to anyone who knew either of them that this was not going to be a great help to Mac.

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It was really going to be more of a burden. But he did it in order to solve this personnel problem for the President. And then, you will recall, Rusk put in George McGhee, a friend of his from the old State Department days, as head of the Policy Planning staff. My appointment wasn't finally settled until January when Kennedy came up to Cambridge for that overseers meeting. You know, there was an overseers meeting at Harvard. Kennedy was a member of the Board of Overseers, and he just came up to Cambridge to attend the meeting which was obviously a great lark. He stayed at Arthur's—Arthur Schlesinger's. I remember going over there to see him to settle this. The street was filled with screaming kids, mostly young girls, 15, 16, 17 years old, but some men as well. Kennedy was having a great old time. He appointed Stanley Surrey [Stanley S. Surrey] that day. Stanley had done some tax

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work for him, again through my group in the campaign period. He appointed Glenn Seaborg [Glenn C. Seaborg] that day. He called Seaborg actually while he was talking to me. The call came through from California, and he got Seaborg's acceptance. He got Arthur's things straightened out that day.

GORDON: You mean the key.

CHAYES: Yes, and mine. So it was a very pleasant day. I remember when it was over, he talked to me last, he and Arthur and I—and Toni, Toni was there—went into the dining room in Arthur's house, and we all had a nice warm strong bourbon before I went back to tell the Dean. It was a January day at dusk, getting dark, and it was a very nice feeling.

Paul Samuelson, to get back to that, was really rather different than Freund. He said, look, he had a place in MIT, had a job that he liked. He was a natural born

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teacher which was one of the reasons he would have made a good Chairman of the Council. But he had the kind of life he wanted, he had enough time with his wife, enough time with his children and enough money. And he was going to stay there. I mean, he just knew all the good reasons for staying there and he did. The President called him a couple of times. I remember, I was in the room with him once when the President called. It was a very funny interchange. Actually, it has gone the rounds because it was such a funny interchange. But I can verify it. This all goes back for some time. I had had lunch with Carl Kaysen one day that fall talking to him about the appointments. They were looking for an Under Secretary of the Treasury, and Carl Kaysen mentioned Bob Roosa [Robert V. Roosa] who, in fact, did become Under Secretary of the Treasury for Debt Management. He gave me

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quite a buildup on him. This was not even a name to me, but I said I would forward it through my channels and I did. So far as I know, and I think this is the fact, this was the first time Roosa's name was mentioned in connection with the Administration. He was then in the Federal Reserve Bank in New York. When Kennedy was calling Samuelson this time, when I was in his office, he asked Samuelson about Roosa after having tried to induce Samuelson to come down again. He then began to run over some names with Samuelson, and he asked him about Roosa.

GORDON: Did he carry notes on these names?

CHAYES: I don't know, I doubt it.

GORDON: Or could he run over...

CHAYES: I think he knew. He was always running these combinations through his head. That was another impression that I got in talking to him in Washington, that his whole energy and his whole thought was concentrated on

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this problem of personnel. He wasn't thinking about policy or anything else. He was giving all of his attention to this, and he was giving a fierce amount of thought to it. He just kept on running the combinations through and changing people around, putting different people in different places and seeing how they would work. Well anyway, Samuelson responded—I had told him that Kennedy might ask him about Roosa—very warmly, and Kennedy said, “Well if he is so good, why don't we have him for Secretary of Treasury? Why Under Secretary?” And Samuelson said “Well you know he is a pretty young man. He is only forty-

two years old." So Kennedy said "What's wrong with that? You can't knock that age." Maybe it was forty-three, but it was exactly the age Kennedy was. So they both roared with laughter at that, and Roosa did eventually become Under

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Secretary of Treasury. Samuelson would have been a great asset to the Administration. But he just wasn't going to be moved.

At that time, also, I remember I was asked.... Whenever a Harvard man or a Cambridge man was being considered, they would send up to me to check him out and get a report on him around Cambridge. I wasn't the only person, obviously. But informally I was asked just because I was still the liaison for the academic group. I remember their sending down to check Dave Bell [David E. Bell], who became Director of the Budget. I sent in what I think was one of the first reports on him.

GORDON: How did you know anything about Dave Bell?

CHAYES: Well, he was over in the Center for International Studies working under Bowie [Robert R. Bowie] and Mason [Edward S. Mason]—I guess under Bowie. And those were the people I talked to—Bowie, Mason, Kissinger [Henry A. Kissinger] and so

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on. I knew Dave from Littauer [Harvard University Littauer Center], even before. And I knew him well enough to give a judgment of my own about him when they called. I thought he would have made a good Budget Director. And so he did. Another thing I remember, when they started considering Rusk for Secretary of State, I got a hurry-up phone call from Dick Goodwin saying that they had heard that he had given some speeches about the proper relations between the President and the Secretary of State. They thought one of them was published somewhere and could I find the speech. So we did a quick research job, and we found it in not a very obscure place. In *Foreign Affairs*. It was one of three speeches that he had given, and it has since been said—I don't know if it is true—that the President in reading this was impressed by the kind of relationship that Rusk sketched between the President and

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the Secretary of State, and this had some impact on the appointment. I also had some contact with the State Department appointments at the time because I was working very hard for Chet as Secretary of State. There was, I think, quite a long time in which Chet was at least nominally in the running. At least he hadn't been eliminated. I think the very first day, the day that I told you about that I was in Washington, but it may have been another time...

GORDON: I was wondering about that. Did you come down more than once?

CHAYES: I may have, I am not sure.

GORDON: Between Thanksgiving and the meeting in January?

CHAYES: It may very well be that I did. I went to Atlanta in December and I came through Washington on my way to Atlanta. I didn't see Kennedy, but I saw some other people. In

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fact, at that time I went and faced Acheson about this business of what did he have against me for the Legal Adviser's position. And I faced Frankfurter on it, too. But I think it was the first time, in November, that I ate dinner at Chet's house. He had a place on Q Street and 29th that he was renting. I may even have stayed there overnight. Soapy Williams was at dinner. Soapy had been offered the African job, and he was very concerned that it really wasn't a big enough offer actually for forty-four delegates at the Convention and the Michigan electoral votes. He was thinking in more Cabinet-like terms. His whole experience was in domestic affairs, and he was thinking of Health, Education and Welfare or something like that. And we spent the evening trying to talk him into taking the African job on the ground that this gave him a new dimension, politically, besides its being a very important

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job and so on. I don't know how much influence we had in making him take it, but we had some influence, I think. Then I remember, as you probably do, the way the Secretary of State thing began to evolve. There were all sorts of names mentioned—David Bruce [David K.E. Bruce], Fulbright [J. William Fulbright], Bowles, Harriman [William Averell Harriman], Stevenson [Adlai E. Stevenson]—a lot of those weren't real possibilities. Stevenson was never a real possibility. Harriman was never a real possibility. Bruce might have been, and Fulbright certainly was.

GORDON: I remember Bruce being mentioned very seriously.

CHAYES: But then this Rusk thing developed. I was talking to Chet almost daily on the telephone at the time, and he told me that Rusk had been called down to talk to the President-elect. Rusk went to see Chet before he saw the President and had a long talk with Chet

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about what he would say, and what he would do, and what it would all mean—and all that sort of thing. Then he went to see the President. I remember Chet called me after the interview, and he told me first about this visit. Then he said Rusk went off to see the President. Then he said he called Chet after he had seen the President and said "Well, thank goodness. It's all right. He didn't ask me anything." He called from the airport and, said "I am

going back to New York." And then about two days later the offer was made and the appointment. But it was an interesting little...

GORDON: Very odd. Didn't he know that Chet was one of the other...

CHAYES: Yes, and that was part of the conversation that he had before. Rusk said, and obviously meant, that he didn't want in anyway to cut across Chet's chances.

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GORDON: Why not?

CHAYES: Well, I don't know. That is what he said. He knew Chet was on the Board of the Rockefeller Brothers Foundation and knew Chet in a number of ways. I don't know, but that is what he said anyway, according to the report of this conversation that I got. By then, anyway, I don't think he considered himself a real candidate for the job, and maybe he didn't want the job. It is one thing to be asked, and it is another thing when you are just brought in out of the blue like this.

GORDON: What was your feeling about the relations between Bowles and Kennedy at that time?

CHAYES: Well, as I said before, I don't think they were ever cordial and close. This derives from the fact that Bowles never really committed to Kennedy in the pre-convention period although he publicly announced himself for Kennedy. And, secondly, Bowles felt very

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hurt and aggrieved by the relationships during the campaign in which he was labeled as the foreign policy adviser, but saw very little of the candidate and certainly didn't give him very much foreign policy advice. So Bowles felt that he was being used.

GORDON: Who did give the foreign policy advice during the campaign?

CHAYES: Oh, I think it came out of the train, you know, the few people who were on the train. And as you recall, there wasn't very much foreign policy in the campaign.

GORDON: Cuba.

CHAYES: The Cuba thing. And I think I described how that developed on the train really.

GORDON: And then there was some argument about the Far East.

CHAYES: Oh, the Formosa thing. That developed out of one of the debates. If you recall, they backed and filled until everybody got into the same

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position, even though Kennedy had started from a rather more open position on the offshore islands. What happens when you get on the train or plane, you live in a kind of hermetically sealed world, and the ability to keep in contact with people who are producing rather carefully developed policy-papers is almost nil. Things are moving too fast for that. The only way to really be an adviser to a presidential candidate is to be on that train or that plane. I told Chet to get on the plane if he could. And from time to time he made an effort, but he didn't make a very hard effort to get on it. The fact is that as far as Kennedy and Bowles went, they just didn't mesh in personality terms. Bowles is rather loquacious—fuzzy isn't the right word, but he doesn't take care with his words, and he tends to repeat rather broad general ideas, instead of focusing on rather specific

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problems. He works out his ideas in conversation, and so he will say outrageous things. And then you have to say no, that is not right. Then he works the thing out in a conversation. And Kennedy doesn't like people who say outrageous things. He likes the first statement to be one that can be stood by. Well, everybody works his ideas out in conversation, but not in the same way that Chet does. He thinks aloud instead of thinking first and then speaking. And you know Chet is just not in the Kennedy style in many ways. I think that was unfortunate because I think Chet had a lot to contribute to the Administration which he didn't ever contribute because Kennedy essentially just couldn't be bothered listening to him for long enough to get what Chet had to say. And I think in some ways that accounted for Chet's very bad relations with the Secretary.

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GORDON: It strikes me that Kennedy was not the kind of a guy that would use his own framework and his own information to refute a guy like Chet maybe. In other words, Chet relied on somebody who would say, "You know that is wrong because of this, this, and this." And I think Kennedy was somewhat cozy with his own information, and he simply quietly assimilated what other people had to say and measured it against his own information. But you never knew what he was thinking.

CHAYES: Well, I think that's very sound. Sometimes you would, but I think essentially what you say is right. It is even more so about Rusk. It is almost impossible to get a reaction from Rusk. He will ask you questions, and he will then bring out little tidbits. But to get a general reaction from Rusk of that kind is almost impossible. So that same problem faced Chet in his relations with Rusk, and

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they very quickly just broke down completely. Rusk said—and I am sure that it is true—to the very end when Chet was shifted over—Rusk called me in and wanted to assure me that I was not regarded as a Bowles man who had to go in this change—that he had the highest personal respect for Chet, but they simply could not establish any kind of a working relationship at all. And that, if nothing else, would have meant that Chet could not stay on as Under Secretary. But of course there were a lot of other things that went into that.

GORDON: Well, let's get back into the appointment times.

CHAYES: I think maybe I have said almost all I know about the appointments.

GORDON: Well, let's stop for a moment.

CHAYES: I think maybe before we call it quits on this one—just to end this part of these

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interviews which is really more personal reminiscence than related to any particular issues or problems of the Administration—I could wind up with a little story about my early days on the job. We came down for the Inaugural on the 21st, which was just wonderful despite the snow storm which prevented us from getting in on all the parties on the night before, but did not prevent us from getting in on the Inaugural. Then I stayed for a week or so, and then I went back to Cambridge. I didn't get down and sworn in until February 7. If you remember—it doesn't sound like much now, but the first great episode of the Administration was the hijacking of the Santa Maria, the Portuguese ship by this Portuguese fellow, Galvão [Henrique Galvão]. The Navy was chasing it all over the ocean, and the question arose whether it was piracy or not. Well, in those days there was a great

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deal of zest and a lot of stories in the newspapers about how the President had his own people all through the Administration, and he would get in touch with them directly. In fact, he did call my office—when a President has ever called a State Department Legal Adviser, I don't know, but certainly nobody in that office had ever heard one before—to find out what the law of piracy was. I was in Cambridge, and I don't know how the story got out, but it did get out, and it was one of the best publicized absences from Washington in that period that I can remember. It is true, though, that when I got back, we were talking on the phone two or three times a day about the facts of the situation and how they fit into the law of piracy. I don't suppose the Legal Adviser's office has had a piracy case for a hundred years before that. But it was again quite typical of the early days of

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the Administration that the President was on the phone directly to his people. He still had a sense of a personal organization rather than an Administration. It is not the way Johnson [Lyndon Baines Johnson] is on the phone all the time. The President wasn't persuading people and trying to move them in one way or another. But he was on to the people of his organization assigning them jobs or getting information from them in the same way that he had used them before they came in. And of course the question of cutting across lines of authority and chains of command did become quite a problem in those early days of the Administration. But it amuses me to think that my first really formal assignment for the President as Legal Adviser had to do with the law of piracy.

GORDON: What was the thrust of his inquiries?

CHAYES: Well, he wanted to know first whether or not it was piracy. If it was, we could pick up

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the ship. And a great deal of the question of our reaction, of what happened, depended on the legal status of Galvão and his men. If it wasn't piracy, it was only a crime against the laws of Portugal, and the question of what our people could do was much more limited. In fact, if you recall, I guess they finally did catch the boat. It anchored just outside of Brazilian territorial waters, or came to a stop just outside Brazilian territorial waters, and then the Captain of our naval vessel who had overtaken it negotiated the surrender of the boat. And they did surrender to the Brazilian authorities; they didn't surrender to us.

GORDON: It was a Portuguese boat.

CHAYES: I can't remember whether it was a Portuguese or a Brazilian. I guess it was a Portuguese boat. Yes.

GORDON: Hijacked by some dissident Portuguese.

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CHAYES: That is right, Galvão. And he took it to Brazil.

GORDON: Where he had some buddies, or some people who regarded him favorably. Let's go on to talk about some of these minor things and get them out of the way.

CHAYES: All right.

GORDON: But first, at the Inauguration and shortly thereafter you came down and then started to work, in essence.

CHAYES: That is right. We were working immense hours. I used to get in at 7:30 in the morning and leave 9 at night. None of us knew what our jobs were. We had to learn the job, and then we had to learn the people. Many of us were totally new to government, as I was. The question of how to work in a bureaucracy like this is something you have to learn. Everything was shaking down. There was a wonderful party given at the White House in the first week or

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so for all the presidential appointees in which again this sense of being a kind of group of buddies was very prominent. We all got over there and a fellow like McNamara [Robert S. McNamara] who was not in the group—you know, perhaps half the people knew each other quite well or hooked into parts of the circle—who was a completely outside person was really quite strange in that party, and he kept sticking out his hand and saying "I am Bob McNamara. How are you?"

GORDON: What about the working? What was that all about? Why was everyone working such tremendous hours?

CHAYES: Well, everybody, you know, felt some sort of mission to do the things that we had said or thought we were going to do to get America moving, to get the country moving again. There was a great *élan* after the Inaugural and all of that and the sense of all these people coming in.

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GORDON: Was it a kind of a rebuke to your predecessors?

CHAYES: Oh, I suppose there was something of that in it, you know.

GORDON: Had they really been goofing off?

CHAYES: Well, no.

GORDON: Just working their eight hours?

CHAYES: I don't suppose anybody in the higher echelons of government really clock-watches, no matter who is in charge. But there was a sense that there was new energy and new impetus in government. And it may have been that some of our long hours were unconsciously motivated by the desire to give this impression. The fact is, when you come in as I did to a new job—you are running an office of 110 people with a budget of a million dollars in nothing, but salaries; I had never run anything but myself up until that time; I didn't have any idea what the work of the office was—you had to, in effect, read almost

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every paper that came through, just to make sure that it wasn't something that you should have read. I read an immense number of telegrams in order to try to keep abreast of the flow of information. Now I don't read more than ten or fifteen telegrams a day. Then I used to read maybe a hundred a day.

GORDON: You know who you can trust.

CHAYES: That is right.

GORDON: But at that time you couldn't trust anybody.

CHAYES: Well, you didn't know. And then the problem of how you work, who you have to check things with, what you didn't have to check, what channels are the best channels for this kind of an operation, which may be quite different from some other kind of operation. My own problems involved problems of how you get to know Rusk and work with him. I had never known Ball [George W. Ball] at all. I had to get to know him. At the same time I was very

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close to Chet. There was the problem of not being too close to him.

GORDON: I got the impression that he was something of an idea man. That he had the key to the State Department in the way that Schlesinger had the key to the White House, but that he had no...

CHAYES: Well, that is right. He was Under Secretary. Under Secretary is a very powerful position if you use it that way. I don't think Chet ever caught on how to be Under Secretary. It may be that it is very hard to be Under Secretary, too. Ball, for example, is really a second Secretary of State. He doesn't take a special area of responsibility and work on that. It is often said that the Under Secretary is an administrative man or does the routine and leaves the Secretary more free for critical questions. I don't think that this could really be. The Under

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Secretary in fact doubles in brass for the Secretary of State.

GORDON: Let's move on to the business of executive privilege and how the Stennis Committee brought that up.

CHAYES: Well actually the Stennis Committee was further on down the track. The first encounter that we had with the executive privilege, and it was the first big encounter of the Administration, was before Porter Hardy's [Porter Hardy, Jr.] Government Operations Subcommittee. It occurred in March or early April 1961. Hardy had made a career out of investigating malfeasance in the AID program, and he was one of those fellows who, though he may have voted for the bill on final passage, did whatever he could to gut it on its way. He usually managed to come out with a big report on some fraud or supposed fraud just as the debates were proceeding on the floor. He was investigating

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some transactions I think in Peru and a particular fellow, I think, in Peru, whose name now escapes me, who he said had acted improperly with respect to AID funds, had maintained a farm—a large ranch really—which had profited from agricultural programs carried out in Peru. And he demanded a whole series of papers from the Department. Both Truman and Eisenhower were very tough on executive privilege. They drew the line very sharply at providing Congress with material that involved recommendations of subordinates to superiors within Departments or reports of chiefs of mission or ambassadors of their conversations with high-ranking, foreign government officials and so on. In fact, Eisenhower had had a very sharp tangle with the Hardy Subcommittee. It was one of the last acts of the Eisenhower Administration. A section of the AID bill provided that if

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the executive branch didn't provide papers of a certain character on demand of the Committee, the funds for the program would terminate. Eisenhower refused to provide the papers, and the Comptroller General [Joseph Campbell] ordered that the money not be paid. Eisenhower then directed the Secretary of Treasury [Robert B. Anderson] to pay the money despite the Comptroller's General's opinion. So this was one of these escalations and showed that the President in the end has the power to override the wishes of Congress on a matter of this kind. Which he does. There isn't anything that the Congress can ultimately do to require the President to produce a paper that he doesn't want to produce. Well, when the Hardy Committee business was brought to my attention, it was brought by a man in the Department who had worked through all of this in the previous Administration and who assumed that the policy would be pretty

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much the same. It was supported by a lot of precedent and so on going back to George Washington. He took me carefully through this previous controversy and so on. Together we prepared a recommendation for the Secretary recommending that the papers not be given and that the witnesses who had been called be instructed not to testify on these matters. We went to the White House because we knew you don't invoke executive privilege without having your flanks covered at the White House, and we talked first to Ted Sorenson [Theodore C. Sorenson] who referred us to Lee White [Lee C. White] who went through all

this with us and apparently concurred in the recommendation. We then had the Secretary of State sign letters to each of the witnesses directing them not to testify on these matters which were well within the traditional view of executive privilege. I went down with the witnesses one morning.

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It was, as I say, early spring. I forget which one it was who first was asked a question. He wasn't a very good witness, as I recall. The hearing went on for about two hours, and it looked a little bit as though they knew what was coming. They were working just up to this line at which the Secretary's directive began, but they weren't asking questions that got over the line. I think, in fact, the question that the witness interpreted as getting him over the line may not really have been over the line. He might have been able to answer it consistently with the Secretary's directive, but in any event, he pulled out this letter, read it, and once it was read, the game was up. Hardy blew sky high. I got up and tried to read a statement explaining the whole business which he didn't permit me to read. The thing hit the front page of the *New York Times* the next day, and the President was on

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the telephone. He called Rusk, and I think I had a talk with him on that occasion. He didn't want any part of executive privilege in situations of this kind.

GORDON: What do you mean? Where was he drawing the line?

CHAYES: Well, he want drawing it anywhere, but he didn't want this kind of an encounter with Congress. He told us to get down to Porter Hardy and work out some sort of an arrangement with him about the documents, and the Secretary was very anxious that we should. We did. I think the point at which the issue had arisen was on this fellow in Peru. As I recall now, his name was Neal [Jack Davis Neal]. We had taken the precaution of sending the file to the Justice Department for investigation. And we took the position that matters—which is a long-standing position...

GORDON: Under investigation.

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CHAYES: —under investigation ought not to be disclosed. I think what we finally arranged with Hardy—we spent a three-hour session in his office—some fairly short terminal date on the investigation after which they would have access to the papers. In fact, it is quite interesting in these things: Once you give the papers, there isn't very much in them, and the thing fades away rather quickly. But it became very clear then that we were in quite a new era, as far as executive legislative relationships were concerned, in this field of executive privilege. And it also became clear—I think the President even said in a letter that he wrote to Congressman Moss [John E. Moss], who was

another one of the very aggressive people on the congressional side—that no claim of executive privilege is valid unless the President made the claim personally. Well, that really

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cut a lot of ground out from under people who were trying to protect the documents that do have to be protected in one way or another, and we were reduced to guerrilla warfare of one kind or another. You try to see if the committee would be satisfied with a summary or a paraphrase, or whether they would examine the documents in private. In fact, we did that once with Porter Hardy. The Secretary took down a whole stack of documents to him on the notion that it was to be examined in private in the Secretary's presence by Hardy alone. And Hardy said "Well, I can't go through this whole stack of documents here. Why won't you leave it here, and you can let me go through it at my leisure." And, of course, it was very hard at that point to say no. And I guess we didn't say no, and so his staff really went through the documents. A lot of things of that kind.

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I don't think that we ever tried to hold back information that Congress was entitled to or could use effectively or even that they weren't entitled to. But when the question comes on the one hand of producing documents—for instance, direct conversation with a foreign head of state—you can give the committee the gist of that without any kind of damaging consequences. But for the actual conversation itself to get in congressional hands and then seep out to the press, as often it does, is rather serious. The other problem is when a person gets fingered for some recommendation that he has made to a superior that turns out either to be wrong or just different from the recommendation the congressional committee would have made. If that fellow can be identified and then grilled, it doesn't lead to a very confident, self-reliant, resourceful kind of civil service.

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That is finally where the President did draw the line in the Stennis Committee hearings. It was the only time Kennedy claimed executive privilege in his whole...

GORDON: What was his feeling about it? Did people argue this with him?

CHAYES: Oh yes, people argued it very strongly with him. He came out of Congress and, remember, Bob Kennedy, who was his Attorney General, was a demon investigator for a congressional committee. So to begin, they didn't have much sympathy for the executive side of the problem. Secondly, I think, they had the political instinct that if you made an issue of non-disclosure, unless it is a really good issue, you tend to lose. The fellow who is trying to hide something tends to lose the political fight even if, as I say, legally there is no way to force the President to disclose. When the executive is not disclosing,

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it sounds as though the executive has something to hide. The committee then makes...

GORDON: They prefer to handle it in, shall we say, vaguer...

CHAYES: That is right.

GORDON: And what the Kennedys disliked was the sort of slap in the face that seems to go with the flat no.

CHAYES: Flat no, exactly. I think, actually, we did give a lot more. I don't think much of that hurt us. I think, in essence, Kennedy was right probably, and Eisenhower was wrong. And when I say Eisenhower, I mean Truman, too, because Truman took much the same position.

GORDON: Yes, but one thing about Truman, he also came out of the Senate, and he was at least as good a politician as Kennedy.

CHAYES: But he made a different kind of judgment. He was scrappier in some ways than Kennedy was. You know, he was tough and belligerent

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and very sensitive to issues of prerogative. Kennedy was not sensitive to issues of prerogatives as such, and he was more concerned with the sense that when you are refusing to disclose, you are on the defensive, whereas usually the issue just fades away when it is dealt with on the merits, and that there were a lot of different ways in which you could deal with the problem without making a straight power confrontation. So he did try to avoid that, and he made much of the fact that he was giving everything to Congress. The fact is that you can't win on that wicket either because there are congressmen who keep asking and asking for things that ultimately they can't have, and we still have outstanding issues on documents that we are now withholding. The Congressman can also manage to handle it without going all the way to the President. They have their

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reporters, their particular people who are prepared to make an issue of non-disclosure even though they haven't exhausted procedures that they should exhaust by putting the matter to the President. In any event, in the Stennis Committee hearings, you recall, the question was on the censoring of speeches of military men. Taking out words like victory and so on, making them much less bellicose and belligerent. This was a standard procedure that has been going on for many years. But Strom Thurmond and some others—Barry Goldwater [Barry M. Goldwater] was on that committee—were anxious to make a case about the no-

win policy of the State Department. And so they got into the question. Something started them off. I don't know what it was. It was some incident of a...

GORDON: Was it Walker [Edwin A. Walker]?

CHAYES: It may have been Walker. It was some incident

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of a very sharply censored—not censored, but revised—speech. They asked for the names of the people in the Defense Department and the State Department who did the speech clearance. Well, we had a great discussion about that, and we finally gave them the names of the people who did the speech clearance. They were pretty good names. We gave them full biographic data, and we said that they were all available for testimony about their procedures, about their attitudes and so on. Well, then the Committee asked that we identify the people among these who cleared particular speeches. The Committee had the files; they knew what speeches were involved and there were some that they were particularly worried about. At that point, the President drew the line. We took this up through Ball and McNamara and actually had a talk with the President on this. Mac Bundy was in on it,

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and Nick Katzenbach [Nicholas deB. Katzenbach]. Part of the strategic situation was that McNamara was able to make the claim first. Ball was doing the testifying for us, but it was a little better if the Defense Department was going to make the claim rather than the State Department. The President wrote McNamara a letter—I think I drafted most of it—in which he took the ground that you couldn't expect to have an effective civil service if this kind of attribution were available to the committee. Then McNamara read this letter in response to the committee's request. McNamara himself felt much the same as the President. He really did not want to get into a final confrontation. But I think when they saw this issue and they knew what it would mean.... You know, there is no way to defend a set of deletions in a speech. There is no way now, six months later,

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to give a good example or a good reason why a particular deletion was made. In fact, we found that out because, as one of the quid pro quos of this thing, we agreed to take every deletion in every speech that the Committee was concerned with—some hundred speeches—and give a reason for it, explain how the deletion was made, how it was consistent with policy, or how it reflected a particular combination of relationships in the international field that made it important not to make that particular kind of statement at that time. We did pretty darn well. You know, we got a huge book up, which we submitted to the Committee. But even there in those deletions there were 10, 12, 15, or whatever it was, that were very

hard to explain, or we, in developing the rationale, expressed it rather badly. Ball had to testify defending that book for about sixteen

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hours before Strom Thurmond. Strom Thurmond just asked him sixteen hours worth of questions for which Ball has never quite forgiven me or my staff who put that book together.

GORDON: I imagine some are just as vague or indefinable as style or...

CHAYES: Yes, of course. They are not supposed to interfere on style grounds. They are only supposed to interfere on policy grounds. But tone is a better word than style. I mean, you take...

GORDON: ...by a phrase here that will offend that SPCA in Mississippi somewhere . . .

CHAYES: Well, of course the State Department wouldn't worry about that, but if you take...

GORDON: ...or the SPCA in the Ivory Coast.

CHAYES: That is possible. In general, the effort was to make the speeches less bellicose-sounding the ground that you don't just rattle swords. That just isn't the best thing to do. Not that you are not supposed to be strong.

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But we didn't like it when Khrushchev [Nikita Sergeyevich Khrushchev] said, "I will bury you", and nobody is going to like it when we say that we will bury them. And the notion that the military men are making the foreign policy is also not a notion that ought to get abroad. But still, if you come down to a particular deletion, it is almost impossible, or it is often impossible, to explain effectively a particular deletion. Anyway, Kennedy stopped at the point of attribution to particular people of particular things of this kind, and we were able to carry that forward a bit, often giving telegrams or documents without showing who drafted them or who...

GORDON: Was this something of a turning point in Kennedy's attitude? Was it a stopping point where he didn't...

CHAYES: Yes, it was a stopping point. But it was not a turning point.

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GORDON: He didn't go back?

CHAYES: No, by no means.

GORDON: But he did discover that there were certain points at which you had to...

CHAYES: That even he.... Well, not *even* he, but I mean exactly as you said. There was a certain point at which you had to draw the line. He did it, and he took whatever he had to take on it. And it was a pretty well publicized event. On the other hand, it was a good case, I think. It was a very understandable case as far as the public was concerned. After all, there was no evidence that any one of these eleven men had anything wrong with him at all. I mean, the biographic data was available. The committee didn't have any basis for suspecting anything from any of these people. The case might have been different if the committee had been able to build, let's say, some sort of subversive

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or communist affiliation as to one of the people. In fact, Nick Katzenbach said, and I think the President agreed, that if that had been the case, then the committee would have been entitled to know what speeches he had dealt with in order to see whether there was some correlation. But in this case, where they were just perfectly good guys who had been in the service a long time—some of them were army peoples the Defense Department does the work, also—and there was no basis for suspecting any of them, then he was not going to let them be grilled by the committee. It was a sound decision.

GORDON: Shall we stop here.

CHAYES: Right.

[END OF INTERVIEW #2]

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