

Ramsey Clark Oral History Interview—RFK #1, 6/29/1970
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Biographical Note

Clark, Assistant Attorney General (1961-1965), Deputy Attorney General (1965-1966), Acting Attorney General (1966-1967), and Attorney General of the United States (1967-1969), discusses his appointment as Assistant Attorney General for the Lands division, problems and changes in the Land division, and Robert F. Kennedy's concern for Native Americans, among other issues.

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Ramsey Clark—RFK #1

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First of Four Oral History Interviews

with

Ramsey Clark

June 29, 1970
Washington, D.C.

By Larry J. Hackman

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

HACKMAN: Did you know either John Kennedy [John F. Kennedy] or Robert Kennedy [Robert F. Kennedy] before the '60 election, really before you came to the Justice Department?

CLARK: No. I'm sure I never met President Kennedy until 1961. I think I met Bob Kennedy in December of 1960 in the Department of Justice in what you might call a job interview situation, but I never met him before that.

HACKMAN: What was your role in '60, let's say before John Kennedy was nominated, in terms of doing any political work, and then during the campaign in the fall in Texas?

CLARK: I had no role. I was a young lawyer in Dallas, Texas. I guess I was about thirty-one or thirty-two at the time. I never really participated in politics. My sentiments in the main, before the Convention [Democratic National Convention] were for Adlai Stevenson [Adlai E. Stevenson]. After the Convention, I worked with a group of young professional people, I guess, but just in Texas. Barefoot Sanders

[Harold Barefoot Sanders, Jr.], who's one of my closest personal friends, was chairman of the County Committee in Dallas, and I was engaged in a protracted set of hearings—F.T.C. [Federal Trade Commission] matter—that really kept me out of Texas, I'd say, a good part of the summer and fall of '60. I remember attending some meetings;

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and I remember, literally, going to some shopping centers on Saturdays with bumper stickers, encouraging people to let us paste them on their bumpers. And that's about the extent of it.

HACKMAN: Had there been any organized effort by the Stevenson people before the Convention to get Stevenson support in Texas?

CLARK: Not that I know of. Liberals in Texas were a lonely lot. We had come to identify with Stevenson to a considerable degree, so I would say there was a large sentimental residue of support for him there, but if there was any organization, I don't remember having knowledge or being a part of it. I don't think there was.

HACKMAN: In your efforts then, with Barefoot Sanders and other professional people during the fall, can you remember having any problems getting anyone, sort of the regular Texas Democratic Party—if there is such a thing—to pay any attention to you, to give you any help?

CLARK: You know, I really wasn't that close to it. Barefoot would know. I think I know this more from later days than from the time contemporary with the events, but there was, even then, a strong feeling between Senator Yarborough [Ralph W. Yarborough] and President Johnson [Lyndon B. Johnson] that created at least one little difficulty when President Kennedy came through Texas and spoke out in Dallas out at the.... He got huge crowds, I remember the crowd at Texarkana. I was out of the city during the time, I think I was in Chicago on this hearing.

But there was a question as to whether Senator Yarborough was slighted, or whether he was permitted to play the proper role, considering his position in the party, out at the civic center. I know there was some feeling that grew out of it because I ran across that a good many times in the later years. The Senator was upset with Barefoot, as I came to know quite well later on. I don't think they even knew about it at the time. At the time it just seemed to me, as the most casual observer, that the crowds and the enthusiasm for President Kennedy were really superb and showed a latent support far beyond what reason and experience in Texas politics would have indicated would have been there.

HACKMAN: How did that appointment then, in regard to the job in the Justice Department, come about?

CLARK: My appointment?

HACKMAN: Yes.

CLARK: I may not really know. I know what I did, of course. I had decided, I guess, well before '60, but I remember in the summer of '60 fixing it as a purpose that private practice in Dallas, under the circumstances, just wasn't satisfying and I wanted to do something else. I wanted to get into government. During the summer I decided I wanted to get

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into the Kennedy Administration if I could, if he was elected.

As a result, I talked to some of the people I had known the best that had access and influence to the Administration. I think the two that probably put it over were Sam Rayburn [Sam Rayburn] and Justice Douglas [William O. Douglas], but I don't know. I talked personally with both of them about my interests. I'm sure that Lyndon Johnson knew of my interest. I don't know whether he pushed it. I think not, but I don't remember. Certainly he had other priorities that he expressed very clearly to anybody who asked. I mean there wasn't any secret about it. I think John Connally [John B. Connally, Jr.] was number one priority and George McGhee was a priority. That fellow that became assistant secretary of Labor...

HACKMAN: Holleman [Jerry R. Holleman].

CLARK: ...Jerry Holleman. The Justice talked with Bob—they had known each other—and also wrote him a letter. Sam Rayburn, I know, talked with Bob several times, and he talked with the President, too, I believe when he visited him down in Florida in December. I came up here and talked with Bob and with Byron White [Byron R. White].

My experience and primary interest was antitrust, but essentially I just wanted to, you know, be a part of a team and get into the department and be a part of the action. I hadn't stipulated any requirement or any minimum stature that I had to have; I just wanted to come. I could have come in any position that they would have seen fit.

HACKMAN: But your focus was on the Justice Department as opposed to other things?

CLARK: Oh, yes. Well, I was a lawyer and I had a romance with the Department of Justice going back to my childhood. Dad [Tom Campbell Clark] joined the department when I was nine. That was a focus. I'm not sure I wouldn't have been every bit as interested in the Department of State, but I had very little to offer there. I knew Latin America fairly well, and I had worked in the Department of State as a courier, but in terms of expertise, I didn't really have it. I'm not sure that I wouldn't have preferred that had I been able to really offer anything. But, as a lawyer, I thought I could offer quite a

bit in Justice. I think I met with Bob about three times before the Inauguration, including the week before.

HACKMAN: Was that before the job was definitely offered...

CLARK: Oh, yes.

HACKMAN: ...or was that offered the first time?

CLARK: No. These were all discussions. They impressed me as being awfully careful in their interviewing. They had a lot of questions, both as to your background and, primarily, trying to sense your attitudes, I think. It was all done by Bob and Byron White, usually not together, but sometimes they would sit together for a little while. Those were very hectic days for them. I mean, they were really rushing around.

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I remember the first couple of times I met with them was down on the third floor of the Department of Justice in the Civil Division offices. They had the space in there. I remember the first or maybe it was the second time I went in there, Nick Katzenbach [Nicholas deB. Katzenbach], who I'd known through the University of Chicago—he wasn't there when I was there, but I took my law up there and, of course, you know all the guys that come to your law school—he was sitting there. He had just come in from Switzerland, as I recall, for an interview, or maybe not for an interview, I don't know what he was in there for, but he'd just come in.

The third time, to my recollection. Byron was by then in the Deputy's office. At least he was on a floor below Bob because I remember when we got ready to go see Bob, he had a cup of ice cream and he'd been talking, hurriedly eating this ice cream, he just all of a sudden said, "Come on." He just went dashing out and leaping up the steps about three steps at a time. I thought, "My God, he can't carry on like this," and, sure enough, in about two and a half months he had a bleeding ulcer. Really, it's just good he was so strong, because he was an awfully sick guy for a couple of months there. And I don't believe he got off of his diet the remainder of his time at the Department of Justice. He was on a pretty rigid diet.

HACKMAN: In those three discussions, was the focus on Lands Division questions, or was it very broad?

CLARK: Well, it started out very broad. My recollection is that there was probably no discussion of Lands the first time. I think they just wanted to see me, see what kind of guy this was, and see if it was somebody they really wanted. They were trying to fit together all the pieces of their puzzle. The second time.... Bob was always a very direct and candid fellow. He didn't put you on. He said that Antitrust was filled. I said that that didn't make a difference to me. I didn't have to be the assistant attorney general; I

could be any place in there that would be of value. He said, “Well, it was between O.L.C. [Office of Legal Counsel] and the Lands Division.”

That was surprising later when I thought about it because Nick was so natural for O.L.C., but I had that clear recollection. I also recall it because O.L.C. didn’t mean anything to me. Even though I knew the department well, during most of the time that I was very close to it there wasn’t an Office of Legal Counsel. There was an assistant solicitor general who did that type of work. And it was a part of the solicitor general’s office. As a matter of fact, it wasn’t the type of thing that either my experience or inclinations lent themselves to. Lands had a lot of litigation, and I’d been in litigation. It was an outside job, so to speak. It was a job that had immense caseload in federal court and a whole range of external relations that you had to work in, whereas the Office of Legal Counsel would be an inside job that would work with the White House and the Department of State and the Attorney General, Bureau of the Budget. That’s the way I picked it up at the time.

I’m not sure I ever really stated a preference between the two. My impression is that when they sorted out the pieces they had Lands as kind of a leftover. It had historically been a quiet place in terms of heavy action, pressured action, fire-fighting and stuff like that. It was a big cumbersome operation that groaned on with little urgency.

The last time—it was just before the Inauguration, it may have been the 18th or the 19th,

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I’m not sure—I think Bob said, “Well, we want you to come.” I may have come back up after the Inauguration, I don’t really recall. I don’t think so. I think it was the week, I know I saw him the week of the Inauguration. The Inauguration was on a Friday, wasn’t it?

HACKMAN: Yes.

CLARK: My impression is that I came up on Wednesday morning and probably saw him Wednesday afternoon, but it could have been Thursday. And he said, “Lands, and get here as soon as you can.” I think that I was probably one of the last chosen, if not the last. Because I was from a small firm and I carried all the litigation, there were just about eight or nine of us, and it makes a big difference in a little firm when a lawyer that’s carrying that sort of thing leaves. It took me a little while. It took me two and a half to three weeks to get adjusted.

They ran the F.B.I. [Federal Bureau of Investigation] in no time. My recollection is the day I got back Judge Estes [Joe E. Estes], who was the Chief Judge, called and said, “Congratulations,” which meant the F.B.I. had already been by to interview him, and, of course, then word got out as soon as that happened.

HACKMAN: In those first several discussions did you get any impression of Robert Kennedy and really what he wanted out of somebody who was coming in as an Assistant Attorney General?

CLARK: Yeah. These are first impressions and I had learned before that to be very wary of first impressions. Also, as I learned, I had a very difficult time doing that. First impressions have always been very strong with me; I try to subordinate them. I thought he was a person of just immense drive. You know at this time it was just like he was on fire. He was just a man with an immense mission. He seemed awfully direct and quick and I thought what he wanted was performance, you know. He gave me the impression of a guy who delegated and wanted only one thing that was excellent performance. And I must say that nothing I saw after that changed my mind.

The only lesson I can really remember him laying down, because he was not a dogmatic person, was that he did not want any engagement in politics. He didn't harp on it because he wasn't a guy to repeat himself very much, but he made that very clear. He didn't want us at political rallies or making political speeches or in politics. He thought this was a law office, and what he wanted us to do was to, in each of our respective areas, just make the best record that we possibly could.

At that time, at the beginning, the respective areas were much more important than they later proved to be, because later it wasn't so much priorities as events that forced us to give major parts of our time and energy to special areas. I don't think, certainly if we did, I didn't see it, I don't think. I didn't either see it myself, or see it through others, that we could foresee the emerging civil rights problems. It became very clear to me, not through the interviews with Bob, but shortly after that, that we'd be heavily engaged in organized crime and in crime control, that this was a matter of deep priority.

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HACKMAN: Did he talk at all in those first several meetings about what his priorities were?

CLARK: No. I don't think so. I think his major purpose in those meetings was to learn as much about me as possible, rather than to tell me anything about himself. We started having regular lunches, and we were soon meeting out at his house. Then the priorities that we selected, so to speak, became clear very early. Civil Rights developed slowly for several reasons, and I'm talking about the early part of '61. One was Burke Marshall had the mumps or something that spring, and he didn't get in for a long time. I doubt if he got in before April, but I'm not too sure. The division was a very slender resource in those days. I mean, there just wasn't much there, and they were just kind of hanging on. The first thing we knew we were into the freedom riders and all of that stuff, and away we went. So, we were just kind of hanging on for a while there, literally. I don't think Burke was confirmed until maybe May.

HACKMAN: I think it was the mumps, but I don't have the timing or anything. Had Robert Kennedy or Byron White in any of those first meetings told you that there would probably be a lot of instances when you'd be pulled out and put on something else? Was that just their natural way of operating, or is that something they

probably didn't anticipate either?

CLARK: I don't remember any discussion of it. I went there with the impression that I would just be devoting my energies to running that division, which in an ideal world, from an institutional standpoint as distinguished perhaps from a personal standpoint, is the way it would be, because those jobs are all a man can do if he really cares about their mission. You can consider that stuff beneath you, or you can consider it a bore, but it's important public work. It needs to be done very well and there's just more there than a person, whatever his talents, can do if he is prepared to really roll up his sleeves and dig in.

HACKMAN: Can you remember, then, when you had the Lands Division in those first few weeks, making a round of visits with people trying to find out what the problems were in Lands? Did you talk to Perry Morton [Perry W. Morton], the guy who had been there before you?

CLARK: No, I never had that privilege. I didn't meet Morton for, I can't remember, perhaps a year and a half or two years. He came back by, and then he started visiting. But he was just a name to me for, I'd say, nearly two years. I went as soon as the decision was made. I'm almost sure it was not the week before. I must have come back up between the Inauguration and the day I got here, come back up about February 18 for good, never left again. I mean, I didn't get back to Texas until Sam Rayburn's funeral which was in December. I think it was Bill Geoghegan [William A. Geoghegan] that took me down, I'm not sure—it wasn't either Bob or Byron—and introduced me to Ed Williams [J. Edward Williams], who was the first assistant, had been since 1942 and had been acting assistant for probably a couple of years during that long period of time and had been offered the assistant attorney generalship a time or two, I think, and a great career lawyer.

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Williams had a set of big notebooks, I'd say three or four of them, great big fat notebooks just full of stuff, special memos that were prepared for the new assistant attorney general, whoever he may be, and descriptions of the facts in legal issues, the major cases in the division, the little crises that could be seen on the horizon, and all that sort of stuff.

The month or four weeks, whatever it was, between the Inauguration and the time I showed up, was a time of considerable action. It's a little hard to figure how it happened because I don't think Jack Miller [Herbert John Miller, Jr.] came in even quite as soon as I did. I know we were sworn in together. I'm almost sure our nominations went up the same day, and I'm almost sure our hearings were the same day. I'm also sure that Jack didn't get in quite as early as I did. Even so, the first Monday that I was there it had already been decided the previous week or so that a section of the Lands Division, the Indian claims section, would be moved out of the department. Well, in terms of the life of the bureaucracy this is like an atomic bomb. So, the first day I was really there I met with those people to explain to them

how nice it was going to be outside the department. The reason was to make space for an enlarged organized crime section. My guess is that Ed Silbering [Edwyn Silbering] was already picked and may have already been in, I don't know, but whether he was picked or not, it has to be that plans for enlarged space were already being made.

There followed very shortly an effort, which continued for about a year, to move the Lands Division completely out of the Department of Justice. I had a number of discussions with Bob and, perhaps for the wrong reasons, I don't know, prevailed with him not to move the Lands Division out. I couldn't understand why it was so important, but I could see that everybody there thought that it was. I suppose, in fact I learned, that the proximity is fairly important. It became hard to keep up with the Indian Claims Commission. I would see the section chief less than others, and I'd have to go to greater effort to be sure to keep in touch and get over there, whereas the people in the building would be in every day.

As soon as I got there, I started going around and meeting everybody. Bob had already walked through most of the department.... There was one fairly famous little incident in which I think John Seigenthaler was with him, I'm not sure, but Bob walked into a peculiar little room. One thing that has always puzzled me is why he thought there would be a lawyer in there, because it's just off what we called the catwalk on the east side of the second floor. A lawyer named Ed Lasofsky is in there all by himself. Bob walked in, and Ed is sitting there with his feet on the desk reading a novel.

HACKMAN: This is a Lands Division lawyer?

CLARK: A Lands Division lawyer, a very good lawyer, and a guy.... Bob never forgot it. He asked once every two or three months, "What's Lasofsky doing?" And it was the best thing that ever happened to Lasofsky, too, because Lasofsky happens to be a very talented lawyer and a quite dedicated lawyer. But he had been caught in one of those little quiet places because of some personality conflicts in the division. He's not a guy to do nothing, so he was sitting there reading. Bob was quite furious that anybody would be so wasting valuable government time that he read the riot act to the guy. And I think even Lasofsky feels it was the best thing. As soon as I got there I heard about it and we immediately made sure we

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involved Lasofsky in efforts that would consume at least forty hours a week. And he produced. He was a good producer, an awfully quick lawyer, as a matter of fact.

HACKMAN: What kind of, if any, consensus did you get from the people in the Division in terms of their attitude about the Eisenhower Administration [Dwight D. Eisenhower] and Morton and what kind of job he'd been doing?

CLARK: Well, I don't know. My impression is that the place had become awfully lethargic. It was just there was no life to it. I had some people tell me in the

first of several months that they had been working there for x years, and I was the first assistant attorney general they'd ever met. They'd never met Morton in seven or eight years. I don't think Morton came on for the first year about. I think they were awfully slow in filling the Lands Division and perhaps some others.

Whatever the attitudes were, there's enough action there always to involve a few people in some fairly vital things, just natural forces of litigation and pressure. They had brought in quite a few political types that stayed through our administration, and some have since been elevated to positions of greater responsibility. But in the main, it was very clear that the place was dead, that cases had been permitted to pile up to unconscionable levels and that there wasn't any spirit. That probably is as well manifested as anything by the fact that Bob got all the young lawyers up in his office—perhaps it was just the honor graduates, but that would have been 90 percent of the young lawyers probably—and said that he was starting an expanded organized crime section and anybody that wanted to was free to apply for it. Well, that was great for the organized crime section, but it was devastating for other places. I think every young man in the Lands Division applied for it, and when I say “every,” I mean probably all four. I can only think of four right now.

There may have been one or two in the appellate section, which is just one of those beautiful theoretical law offices that writes briefs. It has to write a hundred or so a year, and it was just beautiful law up there that comes no matter what happens. They knew what a good experience they were having and may not have. In fact, as I look back, I'm sure there were two there who didn't apply for transfers. We lost three, I think. The only name I can remember at the moment is Bill French who went on to do awfully well. He had been a Notre Dame football player, and he was a good lawyer. We lost him. I had never met him at the time. He left by the time I got there because this happened in probably late January or February. I spent some time trying to convince some of the young guys. You know, I told Bob I was doing it because the average age of the Division was way up there, probably ten or fifteen years older than I was which made kind of a contrast because I must have been the youngest assistant, by four or five years away. Of course Bob was just two years older than I was.

So, the Civil Rights Division tended to be young, not as young as it is now on the average, because it had some old-timers and there weren't as many lawyers then, but it tended to be young. And the Criminal Division tended to be younger. The influx of new lawyers gave it a lot of vitality. Tax Division had always been young because it has a high turnover and is a very attractive opportunity for tax litigators. So, I remember talking some of them into staying with Lands, but it was a sleepy place. It had no sense of purpose or direction at all.

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HACKMAN: Did you get any sense at all of what the Division during the Eisenhower Administration had put priorities on? Was there any kind of sense of priorities that existed before?

CLARK: I don't think the department had ever had any sense of priorities. I think the reasons are several: one, lawyers, psychologically, as they came into top positions felt that they were still lawyers and their business was to be good lawyers and litigate these cases, no sense of control or direction or anything like that. As good an illustration I can think of was in the fall of '62 Bob appointed a group to study the Antitrust Division. He was, I think it is fair to say, pretty unhappy, and the people he appointed were Andy Ullmann [Andrew F. Ullmann] and Joe Dolan [Joseph F. Dolan] and me. I have a feeling Lou Oberdorfer [Louis F. Oberdorfer] was in it from time to time, but I think it was basically the three of us.

We found, among other things, that, I can't remember whether it was 97 or 99 percent of the cases that had been initiated over the past ten years or perhaps since World War II, I'm not quite sure, had come from complaints of competitors. This really meant that you had no priorities or purpose; you just sat there and whatever happened, happened. I think that's part of it.

The second major part is that this department had never had an office of planning and that new officials are very busy guys. It's the easiest thing, almost natural, to come to love the excitement of fighting fires, so that even among our people I would notice some that when one of those rare days came when there wasn't some emergency, they wouldn't know what to do. They'd just kind of sit back, which really means you're missing the main purpose, you know, which is trying to create an effective role for that department. The fire fighting was just as with kids. It's glamorous and you seek it out. I don't think there were any priorities I could detect. They just did what events caused. They didn't question what they did. When outside forces would finally question conduct which had long since been irrational why, they would tend to be defensive. A statute passed in the year 1840 required the Attorney General to examine the titles of every piece of land that the United States should acquire. That probably made sense in 1840, but long before 1900 it had come to make little sense, and by 1950 it was absurd. I found instances when we would pay more for an abstract of the title than the land itself cost, and that's just not very smart. History had long since compelled business interests to get title insurance. It was the only thing that made sense. Here was the government still doing this and of course, the Department of Justice through the Lands Division was opposing this change because it had a vested interest. It had in it fifteen lawyers that were examining these titles very inadequately. They'd really come to examine them on what you'd call a Certificate of Title in the main, rather than an abstract, which really meant you weren't examining the title. You were examining someone else's examination of the title.

In Indian Claims, no sense of really doing anything. They had one piece of legislation that had consumed a lot of their time and been the result of a commission study. That had to do with federal legislative jurisdiction in these enclaves throughout the United States. There are more than five thousand that have federal law, not under delegated laws, but preempting all other law so that they really have state power. They were created under clause seventeen of section eight of article I, like the District of Columbia, but like Yellowstone National Park, too. Laws of Montana, in the main, don't apply there. As a result, if you happened to be a resident there and die and need to

have your estate probated or you want a divorce or something, you're not even a resident of Montana. You've got all these peculiar problems. This was an important little thing that they had worked on. We never were able to do very much with it because of the opposition of civil rights' leaders. And the reason civil rights leaders opposed it was, these enclaves were sanctuaries in the South. Chairman Dawson [William L. Dawson], this was the Government Operations Committee thing. Bob tried to help us, Burke Marshall went up with me to see Dawson a time or two and Bob wrote him some letters. But as long as black people who are being persecuted in the South could flee to one of these sanctuaries and be safe, why, Congressman Dawson, and probably rightly so, wasn't going to be worried about the details or the niceties of jurisdictional simplicity. He wanted protection for his people.

HACKMAN: Let me just follow up on one thing you mentioned on that antitrust study, what impact does that have on Loevinger [Lee Loevinger] leaving, Orrick [William H. Orrick, Jr.] eventually taking over that slot? Was that clearly in the works before then?

CLARK: Well, my guess is, Bob never talked about people, he just wasn't made that way, that personality-wise and otherwise.... I think I remember this for instance: Lee had been married a couple of times. Bob didn't know this, and when he found out about it, it kind of upset him. He had a pretty strong puritan strain in him when you get right down to it. He wanted his people just to be above reproach in every way. That may have affected him. I don't know. But beyond that, Lee was a maverick, he wasn't a team player. He was one of my best friends and an engaging human being, but he would talk a lot when he didn't have to and some of it was undesirable, harmful to the mission of antitrust enforcement. He had this very traumatic experience with the *Los Angeles Times* or was it the *Herald Examiner*, whatever that old Hearst [William Randolph Hearst] paper was out there in Los Angeles. I can't remember the name of it right now, I think I'm getting this right, I think that was when Lee was there. It may not have been, it may have been Orrick, I think....

HACKMAN: I believe it was Orrick, because there was a big difference with Orrick on what to do about that situation.

CLARK: I guess that was Orrick. There had been something like that that Jim McInerney [James M. McInerney] had been involved in. Jim was in the *L.A. Times* matter. The only thing that makes that seem hard is it seems like it was later than that, but anyway, whatever it was, I'm sure that Bob had been quite unhappy with Lee for some time. The study reflected that in part and, I guess the findings of the study would be pretty disturbing. It looked like nobody was in charge and that there was no real sense of purpose or direction yet. I think that's fairly hard to hold Lee responsible for, that's

pretty much what he found.

HACKMAN: Did things change much when Orrick came back and took that over? Was Robert Kennedy more satisfied or did he continue to be upset?

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CLARK: Let's see. I was down in Birmingham, and it must have been in April of '63. I don't think that Bill got back. It happened very quickly. They announced that Lee was going to the F.C.C. [Federal Communications Commission], and there was quite some bad feeling there. I remember I thought I had better get on back up to hold Lee's hand because he could get quite upset. His version of the story was that within fifteen or forty-five minutes after he was advised of his appointment he heard it on the radio and that they really hadn't told him all. He was stunned by it, no doubt about it, stunned and he didn't understand what it was. I think Orrick was announced very soon, but didn't extricate himself from State [Department of State] for some time.

I would say that Bob loved Bill Orrick. They were good friends and Bill was such an enthusiast he would keep so close to Bob. I think one of the problems was Lee didn't keep close enough. He'd have all these time bombs laying down there, and he wouldn't keep close enough to Bob. I don't think Bob really enjoyed Lee, didn't enjoy being around him very much. That made it a little more difficult. I can't say that it was entirely smooth with Bill Orrick. That's not a very smooth phenomenon, antitrust enforcement, so I'm sure there were some difficult ones. I know after Bob left we had some very difficult ones that Nick did. I think it was a much happier situation than it had been while Lee was there.

HACKMAN: Going back to the Lands Division then, were there early conversations you had with Robert Kennedy about Lands Division problems? Let's say even before that. What about just in the way he wanted people to operate in terms of how much information he wants to get and what kinds of decisions he wants to be involved in and how much to handle on your own? Were there discussions like that that took place? Or did he just let you go?

CLARK: I think he was as good at delegating power as anybody I ever saw, and that all he really required in return was performance. I never have liked to just make up things where they're not really meaningful, and the volume of reports from the Lands Division probably concerned him a little bit. But the thing was that you're dealing in massive numbers and huge cases that tend to move slowly. I just didn't want to just be saying something. He was a busy guy, and I didn't want to be taking up his time. We were trying to get on top of them. From time to time he would say, "Aren't there some things I can be involved in? Aren't there some areas that I can help you in?" Pretty beautiful thing coming that way rather than the other way.

In fact, there wasn't too much. We had some areas where we had huge backlogs, and we weren't getting as much cooperation from the judges in getting court time. Bob was

always willing to stick his neck out on things like that. We tried to embarrass some U.S. attorneys into getting some caseloads moving, and he would write them some pretty mean letters for us that would shake them up a little bit. You know, we hadn't even met some of them. I'd gotten out to the hot places where our backlogs were, but when you look at the U.S. attorneys' priorities there, Lands had always come quite close to the bottom. There wasn't the pressure from the landowners because they were getting a high rate of government interests. There wasn't the pressure from the judges because there were very time consuming cases, and they had all of their criminal dockets

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and everything. So, the pressure came from us, essentially.

Bob, when he would go on trips, would let us know, and we could give him memos about cases and caseload problems. Invariably we could see a reaction. I went on a trip or two with him, like we'd go down to Oklahoma where we had huge caseloads, primarily because Bob Kerr [Robert S. Kerr] was a good senator. He'd gotten all these projects going, and we'd condemned half the state. The place is going to look like Minnesota, it would have so many lakes when we got through with them. Bob would really shake them up. I mean, he would have his organized crime meeting that afternoon, but that morning he'd come in and he'd spend fifteen or twenty minutes telling these guys. He'd have enough facts so that they could know this man is not kidding, he knows what he's talking about.

He had this great concern about the American Indian, and he wanted us to find some ways he could help there. It was unnatural from the standpoint of our role, unhappily, because the major thing we were doing in Indian affairs was defending their suits in the Indian Claims Division, which means that the law had put the government in the unhappy posture of being their antagonist in litigation. I thought this was theoretically, absolutely wrong, but our obligation as lawyers was to defend these cases. We initiated a settlement policy, and Bob favored it. We got some criticism for it, but we started settling cases. I thought the thing to do was settle them and get them out of there.

HACKMAN: Who resisted that negotiation?

CLARK: The Congress didn't particularly like these big settlements coming in and the Indian Bar didn't really like them very much because they were building up time that they'd spent. The professional witnesses, which were a big part of this whole process, didn't like it because they tended to be cut out. The Indians didn't really like it because they had these great dreams, you know, about what the land was worth, and we couldn't settle it for that. We had to have some legal guidelines for our settlements. A case like the Indians in California, I think, remains the biggest civil settlement in the history of the United States, but we paid thirty-seven and a half cents an acre. Well, there's no way, there's no way, of making that appear generous to Indians. It's hard to believe that California lands are worth thirty-seven and a half cents, twenty-seven and a half cents, I can't remember what it was really. It was twenty-seven and a half million dollars for sixty-three million acres

of land. So, that would be whatever that would be.

We tried to get into cases where we would defend Indians. We found, really, that we didn't have the relationship with them to. We had the power, under a statute that was really very rarely used, to represent Indians in any matters they might have. We found that we didn't have the relationship with them to pick up the information we needed to defend them. We found that the Bureau of Indian Affairs, which has this intimate, on-going relation, was antagonistic to this, that local jurisdictions were antagonistic. Even so, we got into a few cases where we appeared to be their champion, but it's not a very.... It would be good if we could have provided them a real legal aid service, but the fact is we didn't have the manpower or the access or the information that was necessary to do it.

We got up a story for Bob that was finally run in *Life* magazine, as I recall, probably in the

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spring of '62. It was a bomb, the story was a bad one. We felt downstairs that, as nice as it would be writing about the Indians.... I spent a lot of time working on the story myself, it was all rewritten upstairs because we didn't know how to write magazine type. But to say the things you wanted to say, you got into all kinds of difficulties with your technical legal positions that the law had imposed on you. So, the story wound up appearing neither really sympathetic for the natives or defensive of the government's position. I think he got some bad mail about it. I remember him being a little unhappy about that.

We mounted some efforts for a reduced caseload, and I think Bob really enjoyed that. That was a big thing with him because first it showed that you could master these things that this just wasn't some inexorable course of history that had to build up and up. And it seemed to clear the decks for real priorities. It seemed to achieve a happier relationship with citizens whose property was being taken. He not only enjoyed it, he was impressed about it. I don't have any doubt about it. When we came in, I think there were roughly thirty-three thousand tracts in condemnation, and by the time Bob left, I'd say that was down to eighteen thousand, sixteen thousand, something like that. He felt that we needed to control our litigation in all areas that way, to be master. I did, too. Civil Division cases kept increasing, and Tax Division cases kept increasing, and Criminal Division cases kept increasing without dispositions increasing. In other words, your backlog increases but your product doesn't. I think that these cases consumed nearly half of our manpower in Lands, most of the manpower meaning assistant U.S. attorney time, really.

And we had to do some things that you don't really like, like the ten best districts and the ten worst districts. This infuriated seventy districts because they weren't either the best or the worst, and it made ten.... Cecil Poole [Cecil F. Poole] was one of the ten. He's one of my best friends, and Cecil was just so outraged he could hardly stand it. But, by God, it got action, and Bob didn't blanch. He stuck right by it, so we pounded it through.

He enjoyed some of the conservation cases. We really didn't have the legal tools to do what had to be done, and that's why we got into this land lost study. He was anxious about that. When we came in we couldn't find anybody who could tell you how many

statutes you were enforcing or what they all were or anything. It turned out there were over five thousand and the great majority of them were enacted at the time when the national need was exploitation because you needed to develop. You wanted to get out there and cut those trees down and tear out that coal and iron and build a great country. God knows, fifty years before our time the need had changed and you needed to change your perspective, but the laws hadn't changed. There wasn't much we could do. We had some groups of cases that he was interested in, like our forest cases where negligence caused a loss of national forests. These were good, important cases, and we had some multi-million dollar lawsuits from them. His conservation instincts interested him in these.

HACKMAN: When you say he was interested, what kind of indication would you get, a reaction to a written report you'd send up or a personal discussion? How would he react to things?

CLARK: Well, he had a very grasping mind and memory. Before he would go to Northern California we would brief him on half a dozen big fire cases in National Forests out

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there. He'd get uptight about these, it looked like people were burning down our beautiful trees. He wouldn't forget them. He'd get out there and raise hell, and he would want to talk to the lawyers who were actually handling them. We had some awfully good trial lawyers. Sooner or later they tended to be pulled away to organized crime, but we had Larry Burbank [A. Lawrence Burbank] and Chuck Renda [Charles R. Renda] and people like that who were just really outstanding trial lawyers. He would get them fired up to move on those cases and he'd ask about them at lunch from time to time.

I don't think he responded very much to written memos. Byron would, some. You'd send them up, and Byron would always get a copy. Byron's would come back and say, "This is great," or, "What about this?" or something like that, but Bob wouldn't very often, and perhaps because we didn't send that many that weren't fairly deadly. We continued a monthly report. See, he would get daily reports from Criminal and later from Civil Rights and to some extent Tax and Civil. A lot of it was made-up stuff just to keep him informed and all and educate, but primarily to show what action there was. I tended to think that was wasteful. I just didn't know what it meant for him to read little short paragraphs every day about cases that just happened to be in a particular status.

HACKMAN: From what I can see from reading a lot of the memos, he'd only respond to that once in a blue moon.

CLARK: Yeah. Well, I think, really, he was a sensitive guy, and when he would see that what people were really doing was trying to impress him with how much they were doing, why, it would turn him off a little bit. I think he appreciated

people not wasting his time, although I think on balance, he would probably have liked me to waste a little bit more of his time by keeping him a little more closely advised.

HACKMAN: How was he in dealing, like when you sent up lawyers on cases he was interested in? How was he personality-wise in dealing with these people, very impatient or easy for them to deal with? You know there are so many things about temper, was he quick-tempered with these people or with you?

CLARK: No. I can only remember one time he was quick-tempered with me and that was when we were driving up to the Capitol together for some reason. I think we were going to see Lyndon Johnson. It was probably in '61 and one of his kids had been very sick. I can't quite remember what it was, but I mean it had been in the paper, it was that bad. It was a hundred and five degree temperature or something. That morning he was just very impatient and concerned I think about the kid and also probably unhappy about the meeting. I don't remember what the meeting was about. Outside of that, I never remember any impatience.

This sort of thing would happen. He loved this give and take with the lawyers. One time we had a group up there at night and a lawyer complained about our failure to process a settlement that he said he was afraid we were going to lose and was important. He said it had been sixty days or ninety days. Bob turned to me and said, "Well, what's the matter, can't we move these things?" And I probably shouldn't have said, but I said, "It's been up here for sixty or

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ninety days." He said, "No, it hasn't." And I said, "Yes it has." He said, "Well, I haven't seen it." I said, "Well, it's up here." The average guy would try to roll out of that, but he calls, "Andy," and Andy's in the next room there. He gets Andy in there, Andy Oehmann [Andrew F. Oehmann], and, of course, it had been up there, I would know. And he said, "Yes, it has." So, he said, "It will be back down in the morning," and it was. It was approved.

Well, what that meant was that these guys would.... We were running a lot of settlements through, big settlements, and they involved a lot of money and they'd have memos like that. It was a very obscure field of law, nobody upstairs had any background in it. They would farm them out to divisions to ask lawyers to take a cross view of them. They never turned us down. In the whole time, they never turned us down on a settlement. Byron, tentatively, turned me down one time on one of them within his jurisdiction. Well, see, Bob got all of them that had a hundred thousand dollars or more in the payment. Then we had a lot of million dollar ones up there.

He never interceded in any settlement except one time, and that was a Cherokee case, and it was a real rough one. The Cherokee Nation had one of these Indian claims cases. Senator Kerr and Monroney [Almer Stilwell "Mike" Monroney] and the entire House delegation came in and just raised hell. I can't remember, I think they had some qualms about the dimensions of the settlement. Bob didn't have much patience with that because his

primary instincts were not legal, but humanitarian. We were talking about the difference between twelve and a half and fourteen million bucks, as I recall. It had to do with some legal issues in the offset area.

We spent an hour and a half with the delegation on a Saturday morning—this is in the fall of '61—and finally he settled at twelve and a half, as I recall. But all of his instincts were with them, “For God’s sake, we owe it to the Cherokee and don’t worry about these niceties.” Not that he would.... This wasn’t his attitude generally, but in the Indian cases he tended to think that—as I did, too—but I had a responsibility to maintain a line, a legal position. First we couldn’t get them settled. The Congress had to enact the appropriation on each one of these and you’d get some static up there when they’d go up. All the Indian Claims Commission could do was fix the amount of money.

I don’t remember him ever fussing with any of our lawyers. I think before the end of '61, and certainly by '62, he felt we were producing; he was pleased with the production and, as he came to believe that, he really didn’t press in the area much. He would ask from time to time about where the caseload was and how many Indian claims settlements had now been made and things like that.

HACKMAN: On the Indian settlements, did you ever get any feel for why he was so interested in those, any previous experience that he had, or is this something that really came to him on the job almost?

CLARK: Well, I think that he had just a burning passion for....

[BEGIN TAPE 1, SIDE 2]

HACKMAN: Okay, you were talking about that....

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CLARK: You asked me why he had this thing about Indians. He may have had some specific experience with Indians that I don’t know about, but he just had this burning passion to help people who had been denied justice. He felt that the Indians had been denied justice and, by God, he wanted to do something about it. It was a big thing with him, there’s no question about it, it was a big thing. It didn’t have anything to do with the law, it had to do with justice with a small “j,” with doing right and being fair by these people that we had pushed around for so long. He felt we pushed them around and said so.

HACKMAN: Was there any feedback from the White House? Was there any indication of White House interest either from the President or people on the White House staff on moving these cases that you remember?

CLARK: I don’t think so. I’m sure on specific cases, like the Oklahoma one, we would

get tremendous amount of pressure from the White House. It would never come directly to me, and Bob would never pass it on, just never. But Senator Kerr was a rough scrimmage. There's no question that he intended to bull that thing through.

HACKMAN: Let me skip back to something again in the period when you first got there. Could you identify problems that had been delayed by the Eisenhower Administration because of the '60 election, tough political cases, for any reason had been put off and left for the new administration to solve?

CLARK: Well, the year '60 was a year of very low production in the department generally, certainly in Lands. The vacancies in the United States attorneys offices increased very substantially, and there wasn't much going. I don't recall anything in Lands that....

HACKMAN: Say in maybe California versus Arizona or something? Is that something that they'd gone slow on intentionally?

CLARK Not that I know of. It was fairly far along by the time we got there. It had been handled in the main out of the Solicitor General's office, I mean, to a much higher degree than the ordinary original jurisdiction case. I don't think that it was necessarily being delayed, I don't have any feeling of that. Wisconsin versus Illinois was another one in that category and it really was a very slow case. It involved the Great Lakes. But those aren't the cases like your criminal prosecutions and your antitrust cases; those are the ones that tend to be difficult politically. A case like Arizona versus California, the United States hadn't bought the action, so to speak. It was just in there because of federal interest in federal lands, really. So, it would be very hard to put a political context on it. It wouldn't be like the prosecution where you have the sole responsibility for the initiation, or an antitrust case.

HACKMAN: Are there any speeches or sort of policy statements by President Kennedy or by Udall [Stewart L. Udall] or anyone else in the administration in the very early days

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that the Lands Division gets involved in suggesting or that have a significant impact on the way the Lands Division approaches its problem? Any early conservation messages or something? Did they have an impact on you?

CLARK: No, I don't think so. This was really a litigation operation, and I'm afraid we didn't get any real guidance. We took some positions on some things that were fairly controversial. For instance, the Lands Division, primarily me, opposed quite strenuously the Delaware Compact [Delaware River Basin]. The Delaware

Compact is one of these.... The reason I opposed it was theoretical. I just think that government has got to be simplified, that it's very hard to be effective. To create new regions that just tie us down and make government more cumbersome is terribly undesirable. We had hearings up there. Udall started out being with us, but when we went up to the hearings, why we were just blasted. I remember Senator Joe Clark [Joseph S. Clark] started questioning me by saying something about "Melancholy Baby" and on like that. We backed off with that. It was a policy question; it wasn't a legal question. The administration backed off. Our position remained in opposition to the Compact. I think the states have got to work together and not try to set up regional governments. You get so many governments no man alive can even count them, much less account for their performance.

In federal-state water rights, this had been a major political issue in the West. It had defeated Senator O'Mahoney [Joseph Christopher O'Mahoney] and some other people. There had unquestionably been political delays here, now that I think about it U.S. versus Fall Brook was a highly political case. They'd made films that had been used in campaigns out there that showed Uncle Sam cutting off water to Indians and the Indians dying and that sort of thing.

Mr. Nixon [Richard M. Nixon] himself had caused, at least history reflects it pretty accurately, a legislative rider on the Justice Department appropriations that said, "No funds shall be used for this appropriation for the prosecution of United States versus Fall Brook," the only time in history that that's happened and obviously a gross violation of separation of power. It really wasn't a criminal case, but it really means is you don't have any money to prosecute this guy. We're going to tell you how to enforce the law, not just make it a law in Congress.

There were a range of cases like that that had been dominant. I went out there and plunged into them, sat through the hearings in Fall Brook and then two or three cases like that, city and county of Denver which involved the city of Denver's water supply and was just an explosive case. Then we took the federal position on water rights. The state position was that the states owned what they called the unappropriated waters, and ours was that the federal government owned the unappropriated waters. If, in fact the states owned them, that meant as far as a state like California, which is 45 percent federal lands, this would mean no water for Yosemite, literally. The orchard growers down below would get the water. What we did, we tended to shift that to a legal posture and we let the Lands Division fight it out. The Department of the Interior took a fairly equivocal policy position on it. It was not a winner for a president to get into, it's against the powerful interest of most of those states out there. It was a Western States' issue.

HACKMAN: Maybe before we wind up this time, in terms of another interview, you could just

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spell out for me what non-Lands Division things you got involved in and how those came to you so that I can do a little preparation on some of them. I know in civil rights

there are some things. What about the organized crime? How much do you personally get involved in discussions and policies on that side?

CLARK: Not a whole lot. I remember being involved in wiretap discussions out on Bob's, I guess you'd call it veranda, in the back of his house, probably in the spring of '61. I remember Bill Orrick being asked by Bob. Bob said, "You mean if your child was kidnapped you wouldn't authorize the police to wiretap?" And Bill hesitated a moment and said, "That's what I mean." I sat in some conferences. I remember Sunday night we'd gotten word of a threat against Bob's life and perhaps his family, growing out of the, what was that guy's name from Louisiana that begins with a "P?"

HACKMAN: Partin [Edward Grady Partin]?

CLARK: Partin, yeah, and Hoffa [Jimmy Hoffa] thing. I sat through and participated fairly extensively in the "Test Fleet Case" [United States versus James R. Hoffa and Commercial Carriers], and the decisions as to whether to prosecute—I was against prosecution—and also in the cases that were tried down in Chattanooga growing out of jury tampering and that sort of stuff. I remember sitting in some other general policy discussions about organized crime, but those cases I participated in quite extensively.

In civil rights, not much in '61. I remember feeling a little bit left out. A little bit in '62, but not a whole lot until the Meredith [James Howard Meredith] thing. I spent, it must have been thirty-six, forty-eight hours up in Bob's office during that and then went down and relieved Nick when he came back up. I spent a week down there and then went back later, wrote Bob a memo about getting the troops out. We couldn't get the troops to leave. I had quite a battle about it, shows a lot about the problems this country has with the military and all.

Then I also wrote him a memo at that time about what I thought was the urgent necessity. I sat up all night on the airplane writing it coming back from Oxford, and I was very disturbed by the situation, about the need for legislation. And I think it was either the next Saturday or the following Saturday that we had the first conference on civil rights legislation. I remember Norb Schlei [Norbert A. Schlei] said that my memo was the reason the meeting was set, not that we weren't thinking about legislation, but that was the beginning of the discussions, the formal discussions. It involved other people, Louis Martin [Louis E. Martin] was there, for example.

HACKMAN: Did you stay involved in those on through that?

CLARK: I stayed involved somewhat, but by that time we felt—I say "we," I think it was Bob, I don't really know, maybe it was Nick, too—that we needed to have one guy go to each school district where there would be desegregation under a court order for the first time in September '63. In '62 we would get all these evaluations from different people, and you couldn't make comparisons because one guy

would think this one was going to be a disaster and another guy would take this one very lightly from the difference in the

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personalities. As a result, I was assigned the task of going to each school district that was desegregating under court order for the first time, so you'd have a single attitude on each. The only exception was Prince Edward that was carved out. As a result, I spent a good many weeks, I guess, I don't really know, in the summer of '63, probably starting in June or July, going to Baton Rouge and Mobile and Albany, Georgia, and Savannah, Georgia, and Charleston, South Carolina, whatever the other places were. That's about it, maybe I missed one or two.

These were the school districts that were desegregating under court order. You'd talk to the judge, if he would talk, to the counsel to the school board, to the school board itself, and to the chief of police and the sheriff, and just see what everybody was doing, what needed to be done to insure enforcement of the order and safety of the children and property.

HACKMAN: Are there other things other than organized crime and civil rights then that stand out in your mind?

CLARK Well, there's that antitrust thing. There are some other *ad hoc* antitrust things. I remember being called up to a conference. It was just after Byron had left. The President thought he had been promised by the steel leaders that there would be no increase in steel prices and there was. This was the time the F.B.I. agents started calling guys at three o'clock in the morning. I was in that afternoon, although I had to go up to New York for something, and I left mid afternoon before decisions had been made. I left about five o'clock. But that's the type of *ad hoc* thing. I suppose there were others.

I think I worked a lot with Bob in his relationships with U.S. attorneys because of a number of reasons: one, Lands had so much work with U.S. attorneys, and two, I had established an awfully close rapport with them. Because of the work, really, I had to. That was helpful, so I'd work with John Reilly [John R. Reilly] and other guys, too. We had a bunch of projects, what to do with Reilly's office. I felt very strongly it needed to be very heavily reinforced, we needed more professional people there and more initiative and drive from there.

In the spring of '64, Bob asked me to head up an effort to review priorities and review things that he could do, that we should do, in the department to really move out. This resulted in a lot of work that....

HACKMAN: You mean before he left?

CLARK: Well, you know it wasn't clear that he was leaving at this time, although there was an implication of that, but you couldn't really tell. And I'm not sure, I think it was just ambiguous in his own mind. I just think he wanted to see what everything was that needed to be done. This involved conferences with all the assistants and memos to and from them. Some of the ideas that percolated for the next four years, most

of them probably came out of those things. The Office of Criminal Justice came out of them. It came from, really, recommendations of Dave Hackett [David L. Hackett] and myself; Dave's was a little different. Mine was an administrative justice thing going back to Jeremy Bentham, and Dave's was a little more pragmatic a concept.

I think the things we drew up there really had a lot of meat to them. My recollection is

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that's where Archie Cox [Archibald Cox] recommended a criminal code revision which we got through in a year or so. It's just in the process of reporting back right now. Pat Brown [Edmund G. Brown] became chairman of it. You know, one of those little things that makes a difference; it's an important piece of law reform.

HACKMAN: What about after he leaves then? Are there a lot of contacts, let's say through '66 and '67? Did you talk with him frequently on the phone or is there a lot of distance there in that period?

CLARK: Well, I went up to the Convention and saw him at the hotel on 33rd street that night, after the Convention. The Convention was the damndest thing I ever saw, just bewildering. You know, all these people, I couldn't figure out what they were doing. He got nominated by acclamation there, probably the second or third of September, it may have been a little earlier than that in '64.

I don't believe I saw Bob again for six months. I didn't see him for a long time. Once in a while, I don't really remember, I doubt if I talked to him three or four times in '65 and three or four times in '66. I tried to get close with him to be sure that everything that was said or done about wiretaps was honest and fair. I was doing some of that before Nick left, and then after Nick left I went up to see him and we talked about those things from time to time. But, everybody was very busy, and I think there was a feeling of awkwardness. I could sense it very strongly with Nick that you didn't know how the President would feel about it and things like that. To be constructive you just didn't, I think there was a little feeling of that. I never felt that it was a problem, as much a problem from my standpoint as it was from Nick's, and, as a result, I tried to stay a little bit in touch. But I didn't even talk to Joe Dolan who'd been a very close friend. I didn't talk to Joe very much. I don't think there was ever any hesitance to call about any problem or check on any fact, we were just busy in different directions.

HACKMAN: Well, I guess we'd better just end right here.

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