

John W. Douglas Oral History Interview – RFK #4, 6/11/1970
Administrative Information

Creator: John W. Douglas
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Biographical Note

John W. Douglas (1921-2010) worked for the Kennedy Administration on the release of Cuban exiles involved in the Bay of Pigs and then, in 1963, led the Civil Division of the Justice Department as Assistant Attorney General. In 1966 he left the Justice Department to work on his father's, Paul H. Douglas, campaign for the Illinois seat to the U.S. Senate and then later worked on Robert F. Kennedy's 1968 campaign for the U.S. presidency. In this interview, he discusses issues in the operation of the Justice Department's Civil Division, significant civil rights cases, and Robert Kennedy's dedication to the department, among other issues.

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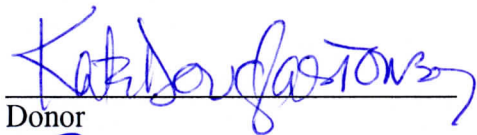
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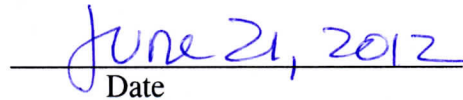
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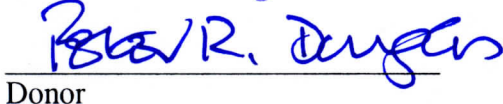
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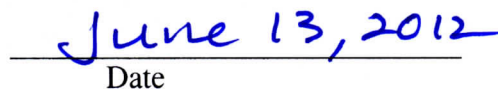
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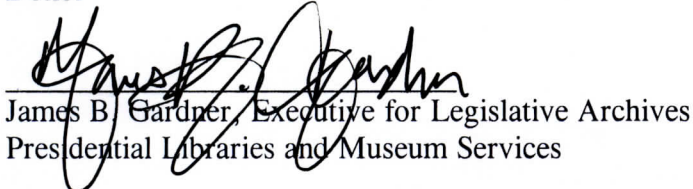
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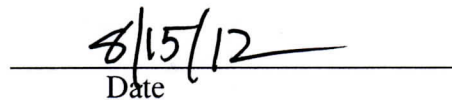

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John W. Douglas – RFK #4

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Fourth Oral History Interview

with

John W. Douglas

June 11, 1970
Washington, D.C.

By Larry J. Hackman

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

HACKMAN: When you came on were there any problems because there hadn't been an assistant attorney general for six or seven months?

DOUGLAS: Well I think there were a few, Larry. Things had sagged a little bit, but they weren't very major.

HACKMAN: Can you recall specific things left over?

DOUGLAS: I think that there were some delays in promotions that might not have occurred if there had been an assistant attorney general who had been confirmed. Decisions on some things had been put off. Exactly what they were I don't really recall.

HACKMAN: Did you make any personnel changes very early on? I know Orrick [William H. Orrick, Jr.], for instance, was sued because he let go the number one man

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of the fellow who had been there before.

DOUGLAS: Yes, within a few months, I made several changes. Joe Guilfoyle [Joseph D. Guilfoyle], who had been the first assistant, although it was under a different name, I moved down to be executive assistant. And I brought in, as first assistant, Bill Doolittle [J. William Doolittle] who was an attorney in the solicitor general's office. And Carl Eardley, who had in effect been the second assistant, although he had a different title, I kept in that position. So, in terms of the front office organization, Bill Doolittle was really the number one assistant; Car Eardley, number two; and Joe Guilfoyle, number three.

In addition, when the court year ended at the Supreme Court, I asked Peter Edelman to come down and be my special assistant and he accepted. He had been clerk for Justice Goldberg [Arthur J. Goldberg] during the 1962-1963 court year and he was with me from 1963 until 1964 when, as I mentioned, he went up to help Bob Kennedy [Robert F. Kennedy] in the senatorial campaign. So, there were those changes.

HACKMAN: Were those simply because you found the people

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easier to work with or was it a new direction of the Civil Division at all that you were trying to bring about?

DOUGLAS: Well, I guess it was probably more than four men in the ladder. I wanted, as first assistant, someone who could argue cases and do the kinds of things that an assistant attorney general could do and was supposed to do. Joe

Guilfoyle is a fine person and outstanding in many ways but over the years his responsibilities had been primarily administrative, and I thought that those talents could be utilized as executive assistant and that the vacancy that would occur in the first assistant's job could be filled and should be filled by someone with recent litigation experience, which Bill had in the solicitor general's office.

HACKMAN: Had you had many dealings with people in the Civil Division before you'd gone over to Justice? I'm trying to get at how your view of the Division changed after you got there.

DOUGLAS: I had practically no previous contact with the Civil Division whatsoever. I think I had been involved in one case. By the time I got to the

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Civil Division, the particular Civil Division attorney who had opposed us in that case had moved on to another government agency. So my knowledge of the Division and its jurisdiction and the way it operated was just about zero when I got there.

HACKMAN: What about the Department as a whole?

DOUGLAS: My knowledge of that was not great. I would say that I had some experience in the Antitrust Division in several matters in which I had been involved, but that was about the extent of it.

HACKMAN: You said that the split of the general litigation section was already in the works when you came on. Any strong feelings on how that worked out?

DOUGLAS: Well, I think it was a desirable thing because of the work load of the two sections. The general claims [section] was responsible for affirmative money claims of the government against citizens and corporations. General litigation [section] was responsible, primarily, for equity suits against the government or on behalf of the government; the latter two types of suits involved efforts to either enforce or enjoin the government programs. So

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there was a basic difference between the two kinds of cases that the two sections handled. In addition, the volume of cases was tremendous. The general claims section had a tremendous volume of cases—five or six or more thousand of them. Perhaps I shouldn't say cases perhaps I should call them matters. It was an effort to bring to bear more administrative talents on the cases that formally had been embraced within a single section—to make them more manageable and to try and see if by specializing a little more we couldn't get a hold of our work load and do a better job.

HACKMAN: Did Robert Kennedy ever get interested in things like that—in the administrative, oh let's say, in that kind of reorganization? Or would he get interested in work load statistics or anything like that? Collections under the collections office?

DOUGLAS: I think that his interest in such matters was slight. I don't recall that I ever talked with him at any length about it. I think I may have mentioned some of the things we were trying to do, and I guess some of my daily reports probably

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reflected that. But by in large, those weren't the kinds of matters that caught his fancy.

HACKMAN: Did he have anything to do with the attitude of your division or that other people had in the Department about younger lawyers in giving them more trial experience or bringing in more young lawyers?

DOUGLAS: Yes, he was very much taken with the proposition that the Department ought to be as attractive as possible both to young lawyers who might wish to come with it and also to those who were there. He wanted them to get responsibility and excitement and interest in this early stage in their development if it was possible. So that anything we did in that direction he welcomed. I think once, when we had a meeting in his office or in the Attorney General's dining room on the fifth floor and we had Civil Division section chiefs with him for breakfast, he raised this question, as he did on occasion with me. There was a feeling on the part of some of the older attorneys at the start that, as relayed to me in 1963, when he first came he seemed

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predisposed against the older attorneys and predisposed in favor of the younger attorneys. My own observation didn't really suggest that; rather, he just was anxious to give the young attorneys as much responsibility and much more challenging assignments as they could get.

HACKMAN: How, from your experience, if you had these kinds of experiences, how did he get along with the lawyers down the line in the Division on cases that conferences—they might sit in on his office?

DOUGLAS: Well, I think he got along very well. He was usually well informed. If he wasn't well informed he quickly got the point of the discussion and stayed on top of it. He had a very incisive mind; he could sort out the relevant things from the irrelevant ones and go to the heart of the matter. He never, to my knowledge, ever made any wild or irresponsible or thoughtless suggestions. He tried to explore different possibilities and in general, was, I think, a very polished and effective and vigorous lawyer even though he hadn't had the traditional type of professional training.

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HACKMAN: How many of the things that you were working with went to then Deputy Attorney General Katzenbach [Nicholas de B. Katzenbach]?

DOUGLAS: Quite a few. I tended to deal with Nick on most matters unless they were of such importance that they had to go to the Attorney General. And when they went to the Attorney General I uniformly told Nick that I was taking them up, or perhaps, he suggested that I do so. But Nick was the immediate person above me in the hierarchy and so I dealt with him—uniformly and regularly.

HACKMAN: Did that go well?

DOUGLAS: Extremely well. Nick was a very fine person to work with. He had a very quick mind. I found him thoughtful and receptive and very sensible. I think he was a very effective deputy under Bob Kennedy.

HACKMAN: Did he work easily with Robert Kennedy from what you could see?

DOUGLAS: From all that I could see, he worked very easily with him. They were, of course, much closer than I was at that time. From all outward appearances they had a very good and close

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relationship.

HACKMAN: Maybe you could talk about your relationships with the offices of the United States attorneys around the country. What kinds of problems are there unique to that period or are there just traditional problems?

DOUGLAS: Well, I think there's a traditional problem. And it stems from the fact that the United States attorneys are appointed by the president and confirmed by the Senate. Yet, at the same time, they're supposed to follow the instructions of the Department of Justice, of which they are a part. The United States attorneys are appointed by the president, but they are appointed on the recommendation of somebody—frequently the recommendations came from the United States senators or from influential people in the Democratic Party. So, that meant that U.S. attorneys were not in the same category as a staff attorney in the Civil Division. Theoretically, you could call them up and tell them they had to do certain things, and if it ever came to a showdown, undoubtedly they would do what they were

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told to do. On the other hand, they had a great deal more latitude. The geographical difference between the Justice Department in Washington and the United States attorneys in the field meant that sometimes things got delayed or mildly garbled in translation; so it wasn't quite the same as having people who worked directly for you.

Then I think the larger problems stemmed from the general understaffing of the Justice Department, and particularly the United States attorney's offices. The United States Attorneys' offices were badly understaffed and underpaid. And I think a real problem was that the cases tended to pile up, and we were very much aware of this in the Civil Division. Since our cases were neither glamorous nor, in many cases, terribly important, they tended to be put at the bottom of the pile. This meant delays and accumulating backlogs that meant we had to ride herd, to some extent, to try and see that the case load was moved and kept in some kind of order.

In addition, since United States attorneys changed, or almost always changed, when the party

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in power in Washington changed, it meant that there was a lack of continuity in those offices

to a greater extent than it was true in Washington, where the attorneys generally had what amounted to Civil Service protection. Very few jobs in the Justice Department changed hands when the administration changed. As a result, in the United States attorneys' offices, cases that had been brought by on United States attorney gathered dust; after the new U.S. attorney arrived on the scene, in a number of instances, files were not paid attention to and it was a part of the continuing problem.

I think it would be a lot better if the presidential appointment of U.S. attorney were abolished and U.S. attorneys were made career attorneys, as they are in the Justice Department itself—be more responsive—more continuity, I think, would mean a better operation. But, that, I suppose, is unlikely to happen given the fact that they are regarded as choice jobs, frequently stepping stones to other things. The Congress, at least, in the foreseeable future, would not go along with such

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a move.

HACKMAN: John, you used to periodically send teams out to the attorneys' offices and I guess to help them do their work in a way, or at least, to push them to do some things. Were there also many instances when there weren't just unimportant cases out there, but that there were some fairly important cases that for political reasons in the states they simply wouldn't move on?

DOUGLAS: There weren't too many—in fact, there weren't any of those as I recall. There were some where they dragged their feet a little bit, and we had to send in a special, outside attorney or perhaps we thought that we needed an outside attorney to give the matter close attention. I don't recall any such specific instances but I'm sure there were some. In some cases we did have attorneys from the Civil Division and if they were important cases we always tried to have attorneys from the Civil Division keeping a close eye on the case itself.

Now there were some districts, like the Southern District in New York, where it was a tradition for the U.S. attorney there to oppose

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outside attorneys coming in except in the most extreme circumstances. So we had a kind of a running battle with Bob Morgenthau [Robert M. Morgenthau] over that, as did some of the other divisions. But, I guess to sum it up, we tried to keep track of important cases and to run them out of Washington by having Civil Division people either handle the case themselves in a direct assignment or else by having them monitor the progress of the case from the local district very carefully.

HACKMAN: Are there any instances when you take problems like that to the senator on the Hill and discuss that with him, a guy he recommended for the job or whatever?

DOUGLAS: I never did that. No. That was done entirely, if it was done at all, by the deputy attorney general's office. He had under his jurisdiction the Executive Office for United States Attorneys. John Reilly was the first head of that. Bill Brady [William Brady] succeeded him and that would have been the deputy attorney general's job. He also had

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responsibility for liaison with the Congress on legislative and budgetary matters so it would naturally fall into his bailiwick. If we'd had a problem in that regard, we'd have gone to the deputy attorney general.

HACKMAN: Do you know whether or not Robert Kennedy ever got directly involved in the Morgenthau thing in New York?

DOUGLAS: No, I don't. Let me say, Larry, in connection with the relations of U.S. attorneys: one of the problems with the case load was of course a very simple one and that was that the cases were piling up—didn't have enough attorneys: no apparent ability to get more attorneys—primarily because of the opposition of John Rooney and to some extent Sal Andretta [Salvador A. Andretta]. So we had to look for other ways in which we could somehow handle the case load in a better and more efficient fashion. We tried to do that to some extent by delegating more authority to

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the section chiefs and most of the United States attorneys to settle cases. And I think that helped.

Of course there were constantly new cases coming along and one of the things that we were looking for was to figure out new ways in which we could handle our litigation more fairly, more quickly and with less trouble to the other side. And one of the things we came up with was an amendment to the Tort Claims Act, whereby the various federal agencies could settle claims for tort injury without requiring the claimants to hire an attorney and sue in court.

We also required the government to bring suit on contract cases or tort cases within a specific period of time. Prior to that time the government could lay back and not bring any such suits and the statute of limitations applied against the private litigator who wished to bring suits but not against the government. It seemed to me that that was

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unfair and we corrected that with a statutory proposal. Now those two proposals and a couple of other revisions in government civil litigation were things that were not enacted until 1966, but we'd started to think about them in 1963 and in '64, I guess more. And they finally wended their way through the Department, the Budget Bureau, and that's one of the reasons I wanted to stay on in '66, to get those things through.

HACKMAN: Umm hmm. Did you have many personal contacts with Rooney; did you make efforts or was that left up to the deputy attorney general's office?

DOUGLAS: The only contacts I had with Congressman Rooney were at the annual appropriation hearings.

HACKMAN: You said you could recall some things about Civil Divisions' relationship with Archie Cox [Archibald Cox] on...

DOUGLAS: Well, Archie was a superb attorney as well as a person of unusual industry and integrity, and

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I thought, fine judgment. I rather think that he was the best solicitor general that the department's ever had, just as I would say that Bob Kennedy was the best attorney general. But Archie had a tremendous capacity for work. He, I think, was on top of all the cases which the Department of Justice was handling in the Supreme Court. He had any number of conferences with department attorneys and with heads of divisions who wanted to persuade him as to a particular course of conduct.

He was very open to suggestions but very strong and firm in his belief as to what position the government should or shouldn't take. He, to my mind, was a pleasure to deal with because he was extremely able, very straightforward and understanding as well as having, I thought, good ideas. He had this remarkable capacity to concentrate on matters and work very long hours and of course was an extremely effective

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advocate in the Court itself—a really remarkable lawyer and also very good judgment on matters. I liked to talk to him about Civil Division questions from time to time and I uniformly thought his judgment was good—didn't always agree with him, but valued him most highly. Do you want to talk about some of the other people in the Department?

HACKMAN: Yeah.

DOUGLAS: Well of course I enjoyed very much and valued very highly, working with Burke Marshall and John Doar. I'd known Burke for some time and had a very high regard for him both as a person and as a lawyer. And that affection deepened with the Department, and we worked together on a number of things in the civil rights area. We handled some cases involving civil rights; in addition, as I mentioned

in some of the earlier interviews, I worked on civil rights projects which weren't really involved in

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litigation. But he was a fine person to work with. He was utterly reliable, had an extremely quick and perceptive and all-embracing kind of mind. He saw all the different possibilities and yet didn't just juggle them all; he analyzed them and came out with some conclusion one way or the other. And of course his standards were very high. John Doar had a similar collection of first-rate talents. [Interruption]

HACKMAN: You'd been talking about John Doar just a second.

DOUGLAS: Yes. Well, John was very much an activist. He liked to be out in the field. He had extremely good judgment. He was a litigator. He was a great person on gathering facts and using the traditional process itself to achieve a particular objective. He was rather strong and an original thinker in many ways. Bill Orrick, I've already mentioned in an

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earlier interview, was extremely helpful to me in the Civil Division because of his knowledge of the Division and its personnel and its problems and I'd always enjoyed working with him.

I talked a great deal with Lou Oberdorfer [Louis F. Oberdorfer] whom I had known, but not known well prior to the time I came to the Department. Lou, a very thoughtful, serious-minded, practical lawyer with a great deal of experience and common sense, an extremely selfless kind of person. He had a remarkable sense of organization, a remarkable degree of preparation for things. I don't know of any attorney in the Department who was as careful and meticulous as he was. He was very thoughtful and helpful in many times that, well, in a number of times where I asked him to write a suggestion.

So there were different kinds of people. They were all very....And of course there

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were others, too. Joe Dolan [Joseph F. Dolan], with whom I became good friends as time went on. He had quite a remarkable degree of sensitivity and propriety, it seemed to me. He was an extremely discreet person. I never knew him to cut a corner—very careful in his personal relationships in the sense that he was always reliable. As a matter of fact, I really don't know of any person with whom I worked in the department of the top echelons who was otherwise.

So it was a delight to work with these different people, many of them having different kinds of personalities, many of them having talents in one field and talents different from those in another. But there was a common spirit; we all had a sense of participating in something more important than we had been associated with before and no doubt that Bob Kennedy set the tone for it. So I think that while the people themselves

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and as individuals were outstanding—individuals who would have been so under any

administration—nevertheless, they worked together and were more highly motivated and more dedicated and more effective, more idealistic certainly, than they would have been in a different kind of setting with leadership other than the kind Bob provided.

He looked for the best in people and usually found it, and without saying so, I think, he had them reach above and beyond the level of performance which they themselves would have considered to mark the limits of their capabilities. And I think he encouraged them also by example in trying to make difficult decisions and to stand by them and take the consequences for them. So, even as I look back on it, I would say it was a remarkable exercise of individual leadership, primarily through the force of character and example.

HACKMAN: When people talk about the Justice Department

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and the Robert Kennedy people in the Justice Department, people seldom mention or talk about Ramsey Clark. What can you remember about Ramsey Clark?

DOUGLAS: Well, I shouldn't have omitted Ramsey in that. I'll take care of that in the editing, but Ramsey was very quiet. Ramsey stuck pretty much to the Lands Division and did a very good job in it. He did not argue cases in the Lands Division, unlike most of the division heads who sought to argue cases. He devoted himself to the internal administration of the Lands Division and was extremely interested in the administrative side of that division. I think that was his prime interest or so it seemed to me and I talked with him at some length about the way in which he ran the Division—his Division—in trying to get

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some ideas for Civil Division. Very concerned about the management of his case load, particularly in the acquisition program of the government, of land, very much concerned with that whole administrative problem. It was well known that Ramsey was liberal and progressive in his instincts but he was a very cautious person at that time.

HACKMAN: Jack Miller [Herbert J. Miller, Jr.] is the only other...

DOUGLAS: Yeah. Jack, I dealt with really in connection with those Criminal Division matters in which I was asked to participate. Jack was hard driving, lively, vigorous, I think an extremely effective head of the Criminal Division, straightforward and independent. I don't think he ever let the possible political consequences of any case effect him. We used to tease him about him being a Republican and of course he loved that. He was a very vigorous prosecutor and attracted

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and held a number of first-rate attorneys, and of course fought a lot of important, significant cases with very fine results.

HACKMAN: You mentioned Bill Hundley [William G. Hundley] earlier and the fact that at one point he was let go.

DOUGLAS: Well, yes. That was before my time, but Bill Hundley had been in the Justice Department for some time, at the time that Bob Kennedy became Attorney General in 1961. As a matter of fact, when Bob was the counsel to the Senate Investigations Committee [Select Committee to Investigate Improper Activities in the Labor or Management Field] under Senator McClellan [John McClellan], Bill Hundley was in the organized crime section: in fact I think he was head of the organized crime section and he and Bob Kennedy had a number of set-to's as Bill now recalls, a difference of opinion,

and frequently vigorous as to whether particular cases should or should not be brought in. When Bob came to the Justice Department, I think he replaced Bill

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with Edwyn Silberling.

HACKMAN: Silberling.

DOUGLAS: That didn't work out and Bob realized that Bill was a first-rate fellow and put him back on top. I think it was a tribute to both of them that they worked out such a good relationship.

HACKMAN: You'd mentioned earlier, personnel problems and the problem maybe with Sal Andretta. Were there other areas in the Justice Department that you found particularly difficult to work with that you had contacts with?

DOUGLAS: Well, I was always troubled by the promotion policy. It seemed to me there really were too many rulings on promotions, too much in the way of requirements for waiting. The Deputy Attorney's office had certain rules to bring uniformity about in promotional practices and I suppose it was necessary, but each of the division heads thought that he could be fair and if they'd just let him administer his own department attorneys, he could do a better job

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and maintain better morale—one of those typical periodic problems, I guess, that one runs into. There was a continuing money squeeze though throughout the time I was there in the Department. It became increasingly worse as time went on and what happened was that the salaries were increased which was fine and which was overdue, but money available to pay those salaries did not go up proportionally. As a result there was a continuous squeeze on

personnel.

HACKMAN: Yeah. Well looking around the rest of government. Now you've mentioned FAA [Federal Aviation Agency] in one case where Jeeb Halaby [Najeeb E. Halaby] came over and got involved, but what about the Department of Labor on the prosecution of cases they might have wanted to bring. Can you remember any problems there were with other departments or anything?

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DOUGLAS: We had problems with GAO [General Accounting Office]. GAO seemed to take the position that since they were there to monitor the efficiency of government operations, that they were free to investigate a great many things that had only a peripheral relationship to efficiency. This tied up personnel and I don't think really contributed much in the light of constructive suggestions.

We had continuing problems with the Bureau of the Budget on our budget requests and in getting prompt clearances with legislation. This was primarily true after Bob Kennedy had left, and I was trying to get Budget Bureau approval for these reforms and litigation to make the government a less privileged milieu and to put it more on par with the private litigates. It seemed to me it took me an inordinate amount of time to get the Budget Bureau approval for what seemed [inaudible], fair kind of proposal.

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Well there were problems with all government agencies to some extent or other, just as—well it's what you expect.

HACKMAN: Yeah. I guess one subject on which you frequently reported to Robert Kennedy were your dealings with the Federal Housing Administration concerning home improvement loan programs which was being used as some sort of a dumping program: or they dumped their cases on the United States attorneys' office. Do you remember any progress made on that?

DOUGLAS: Uh, well, I think we made some progress maybe towards the end—the typical kind of a bureaucratic paper shuffling device. They wouldn't look at their cases; they would refer them to the U.S. attorneys whether they had good cases or not, and they could report to Congress or to other people that they had referred x number of cases to the Department

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of Justice and they could forget them. Really what needed to be done was for those agencies to exhaust their—to really make an effort to collect the money before they dumped them on the Department. And that was a continuing pain in the neck. It was responsible for a great glut of cases which impeded the work of the US attorneys on more important things.

HACKMAN: Maybe you could talk about some of those specific cases—the McCloskey case [Matthew H. McCloskey], you know, and a couple of other things.

DOUGLAS: The McCloskey case as a case which was brought after the assassination of President Kennedy, though during the period that Bob Kennedy was still attorney general. McCloskey Construction Company was owned by a family headed by a prominent Democratic fund raiser, former treasurer of the National Committee, and a former U.S. ambassador to Ireland. He was Matthew McCloskey from Philadelphia.

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McCloskey Construction Company had built a hospital outside of Boston for the Veterans Administration. Sometime after it was put up various defects began to appear in the hospital building. And we looked into the matter and decided that a suit should be brought against McCloskey for faulty construction. It was, in effect, a breach of contract case. We made that recommendation to the Attorney General and he didn't bat an eyelid; he just said, "Go ahead and follow it." To my mind it was an indication that he let the chips fall wherever they would and didn't care about the political consequences in a case such as that. Now that case was eventually settled by this Department after I left the Department. They recovered a substantial amount of money.

HACKMAN: Are there other cases like that, that come to mind?

DOUGLAS: I settled the suit brought by John Stewart Service which he had brought in the Court of Claims.

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He had brought a suit there for recovery of back pay from the date of his discharge from the State Department on security or loyalty grounds during the Eisenhower [Dwight D. Eisenhower] administration. The discharge itself had been moved illegal by the courts and the question was whether this entitled him to back pay and if so, how much. I felt that the suit had merit. I felt that injustice had been done—a disservice—and I thought to alleviate the matter out to the end, we should try to settle it. So we did and I kept Nick Katzenbach informed of what was being done and settled it.

It was a settlement reached in the Civil Division, but the point was that Bob Kennedy knew about all this and didn't try to affect the course of the settlement even though it was conceivable that there could have been some flak that we shouldn't have settled it. [inaudible] side. But I would

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say that throughout, in my experience, there was never a trace of any kind of political consideration in the kinds of areas that Bob's Civil Division dealt with.

HACKMAN: Well on any of these civil rights cases, I guess particularly in late '60—it was 1963—developed, is there any hesitancy to go along with any civil rights cases in the South because there's an election coming up or simply because of the turmoil that's going on around the country on civil rights?

DOUGLAS: Well, I wouldn't have thought there was any, but of course I wouldn't know since the civil rights cases brought by the government would have been handled by the Justice Department's Civil Rights Division. But I was not aware of any and I would be surprised if there were any.

One civil rights-connected case on which I worked was *United States v. McCloud*.

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That was a case where—in Dallas County, Alabama—the prosecuting attorney there wished to bring before the state grand jury Civil Rights Division personnel who had been investigating violations or possible violations of federal law in that general section of Alabama. The Civil Rights Division felt that the prosecuting attorney was just trying to harass, intimidate, and prevent these Civil Rights Division personnel from carrying out their responsibilities. So we were asked to bring a suit to prevent these individuals from being arrested and from being called before this grand jury.

The suit was brought in the U.S. District Court in Mobile. We asked for an injunction. The injunction was denied. Bob Owens [Robert D. Owens] of the Civil Rights Division went down with me. We then flew on in a special small chartered plane to New Orleans where I argued the matter before a three judge panel of the Fifth Circuit. They reversed

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the District Court, entered an injunction pending the trial on the merits, and that had the effect of terminating the controversy and the Civil Rights Division attorneys were able to go one about their assigned case.

There's one interesting thing about that: it's a very difficult thing to enjoin a state prosecution in its efforts to conduct a grand jury investigation and the only way that we were really able to do that, I think, was that the state prosecuting attorney made it perfectly clear in a statement that the purpose of this investigation was not to inquire into a violation of state law, but rather to get after the federal officials for their carrying out of their federal responsibilities. And that statement, I think, helped us a great deal with the court of appeals.

HACKMAN: Did you discuss that with the Attorney General at all that you can recall?

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DOUGLAS: I don't recall, Larry. I don't think I did.

Then there was the *U.S. vs. McShane* case which was sued under the Tort Claims Act against McShane—no, excuse me.

HACKMAN: It wouldn't have been the *U.S. vs. McShane*, would it?

DOUGLAS: No, I'm wrong on that. It was *Norton vs. McShane*. It was a suit in the U.S. District Court—one in the northern district of Mississippi, another in the southern district of Mississippi—seeking damages from Justice Department personnel who had participated in the integration of Ole Miss at the time of the Meredith [James Howard Meredith] entrance, in the fall of 1962. The allegations were that the plaintive had been injured by tear gassing and other activities of the marshals. The department did not wish to have to go on trial on those issues because it would tie up personnel and might lead to all kinds of harassment by hostile

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and unreasonable state officials, so we moved to dismiss on grounds of official immunity, to catch an affidavit saying that it was the legal authority of these people to give. These affidavits were not met by countering affidavits. The district court in the southern district of Mississippi refused to dismiss or grant some rejudgment for us. The district court in the northern district of Mississippi did grant the motion to dismiss.

We then took an interlocutory appeal from the decision in the southern district. That was agreed to by both Judge Cox [Harold Cox] and the Fifth Circuit Court of Appeals—that is to say, they heard the interlocutory appeal and the Fifth Circuit reversed to what was a lively argument that I had on that case. Judge Guen was quite critical in the lead dissent. The opinion was written by Judge Reed and it went off on a technical kind of basis.

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HACKMAN: Did you talk to Judge Cox personally on this kind of thing? Did you ever get with him on the phone?

DOUGLAS: No, I did not. I never talked to Judge Cox. Several people in the Department talked to him on other matters, I think, but I didn't talk to him.

I did have one case involving him however. I guess it was after Bob had left the Department. The grand jury down there, perhaps under prodding of Judge Cox, wanted to bring an indictment against a government witness in the civil rights case. The charge was that the witness had perjured himself and the grand jury wanted to have him indicted for perjury. So the grand jury asked the Justice Department to assist them in the drawing up of the indictment and in signing it. The U.S. attorney under directions of Nick Katzenbach refused to do so, on grounds that it was unwarranted.

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So Judge Cox held that the U.S. attorney was in contempt and issued show-cause

orders as to why Katzenbach shouldn't be held in contempt. That was then appealed to the Fifth Circuit Court of Appeals. I argued the case before a full panel of the Fifth Circuit or at least all of those who were available—I think it was seven judges sat in Jacksonville. There were two issues in the case: whether the U.S. attorney had to help and assist and give legal advice to a grand jury under certain circumstances, and secondly whether he had to sign. The court ruled four to three that he had to help and ruled four to three that he didn't have to sign. Judge Jones of Jacksonville was the swing vote, voting with the majority in each case. The net of that was that since Judge Cox had directed the U.S. attorney to do both things, and since he didn't have to do both things, he kept citations that were vacated and that ended the matter. So it was a very interesting, lively

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argument.

HACKMAN: On cases like that, that you argue yourself then, do you come back and does Robert Kennedy talk to you about them or share what went on or are those the kind of things that you simply send up the results on, on paper?

DOUGLAS: I don't know that I ever discussed any particular case that I argued with Bob Kennedy. It was sort of water over the dam. When I got back, I did discuss that with Katzenbach, and since he'd been held, well had been threatened with contempt, I thought it was a pretty good achievement and he said, "Well, you only got a split vote on the proposition resolving that the United States attorney general should stay out of jail." But I tended to discuss cases with Nick if I thought they were important.

HACKMAN: Did you ever get any indication that Robert Kennedy felt that people should get out and argue cases, you know, that that's something he had a strong feeling about or not?

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DOUGLAS: No, I didn't. I don't think he ever expressed himself and people followed different courses of action. Most people—oh, everybody I think, liked arguing cases, except Ramsey Clark.

HACKMAN: What other cases did we write down earlier? What did you write down?

DOUGLAS: Well, those really were the ones that came to mind, Larry. There was one thing that your mentioning Bill Hundley brought to mind that I thought was interesting. Bill Hundley left the department quite awhile after Bob Kennedy did; I think he left in '66 or '67. And he was telling me the other day that when he was leaving, Walter Sheridan who was then with NBC [National Broadcasting Company] wanted to have him participate in a documentary that was being done, I gather, on organized

crime or on the general problem of crime.

Bill hadn't been particularly happy with the way things were drifting in the Department and Walter knew that. On the other hand Bill was a

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little reluctant to blast the department after he had been a part of it for that number of years, but Walter wanted him to participate. And Bill thought, "Gee, I wonder if Bob Kennedy really wants me to participate in this thing." And he said he was sitting in his office—I don't know whether it was in the Department or after he'd formally left—but Bob Kennedy called hi and Bill said to himself, "Uh-oh, here it comes. He's going to want me to go on that program and if he says he wants me to, I guess I will." Instead, Bob got on the phone and said, "Bill, I don't think you really ought to go on that program. You've had a good, distinguished career at Justice and why leave it with that kind of a blast?"

So I mean, I think it was a pretty good indication of both the generous and broad-minded view which Bob took because if you look at it in terms of Bob's own political

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Interests at the time, such a blast would have been advantageous to Bob, but he was not interested in exploiting others for his self-advancement. He was far more concerned with their own careers and their own interests and he understood, and was more concerned that they do what was best overall and for them rather than doing things which would help him.

You reminded me also of the time [inaudible] when I had this back operation in 1967, I guess it was, over at Johns Hopkins. Gosh, about the first call I got when I came out of the operating room and was conscious, it was Bob just asking me how it was and joking about it. But he was a very thoughtful, considerate person and he followed up on such things. When Bill Hundley left the Department, I got a call from Bob—or when Bill was thinking of leaving—I got a call from Bob, asking me to do what I could; and I remember having lunch with him either before or after that

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when he repeated it. So he was very solicitous about his friends and about people whom he thought had performed well at the Department, very understanding of them and their interests and their concerns and very anxious to do all that he could for them.

HACKMAN: Let me ask you just one other thing about the Department. Do you remember anything about the New Haven Railroad while you were there and how that went?

DOUGLAS: Well, that was a reorganization that just stretched out interminably. Paul Sweeney, in the Civil Division, who was an outstanding attorney, an older man who retired and was back on a retainer basis—I shouldn't say on a retainer basis, but on a retiree basis, coming a certain number of hours a week—handled that,

did a fine job and more than that I can't remember.

HACKMAN: You didn't have to do a lot on it.

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DOUGLAS: I worked with Paul on it, but Paul handled it and just checked with me.

HACKMAN: The only other thing I've got is I told you I was going to go back and check the memo I mentioned last time and you said you didn't remember.

DOUGLAS: Yeah.

HACKMAN: It was January 6, 1964.

DOUGLAS: What does it say?

HACKMAN: It says, "Bob, think about this. John." You looked at the relevant chapters of the New Hampshire Statutes and it says that the preference primary is for candidates for both president and vice-president and that the write-ins are explicitly permitted, and it goes on, you know, to say he would have to file or whatever, forty days before. Also the same kind of information on Oregon, saying that the entire mechanism in Oregon is very similar to New Hampshire and provides the same. It's on a yellow legal pad, typed on a typewriter, and scribbled on the top.

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DOUGLAS: Well I'd forgotten about that Larry. Frankly....

HACKMAN: Why do you think you wrote that at that time?

DOUGLAS: Well, I must have thought that it was something he might do. I know that he was thinking about what he ought to do and what he'd like to do and I guess this thought occurred to me and I guess it was....But I don't think he ever discussed that with me.

HACKMAN: I think this is before the, you know, when all the rumors about Paul Corbin being up in New Hampshire directing "Kennedy for President" efforts in New Hampshire, whatever. You don't remember ever talking to him about that either.

DOUGLAS: No, I was over in Europe at the time that Paul was up there and hadn't really....Paul did a number of remarkable things. It would be hard to surprise anybody about what Paul did or didn't do. Was he up there?

HACKMAN: Yeah, I guess, for a little while.

[END OF INTERVIEW]

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