

Louis F. Oberdorfer Oral History Interview – JFK#2, 12/16/1964
Administrative Information

Creator: Louis F. Oberdorfer
Interviewer: Charles T. Morrissey
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Biographical Note

Louis F. Oberdorfer (1919- 2013) was the Assistant Attorney General in charge of the Tax Division of the Department of Justice from 1961 to 1965. This interview focuses on the reorganization of the Tax Division, criminal tax cases that the Tax Division tried during the Kennedy administration, and the appointment of judges, among other topics.

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Louis F. Oberdorfer– JFK #2
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Oral History Interview

with

LOUIS F. OBERDORFER

December 16, 1964
Washington, D.C.

By Charles T. Morrissey

For the John F. Kennedy Library

MORRISSEY: Could you tell me how you initially became involved with the Kennedy entourage?

OBERDORFER: Byron White [Byron R. White] was a law school classmate of mine. I had know him after the war when we were law clerks together here. I worked for Justice Black [Hugo L. Black] the year he was clerk to Chief Justice Vinson [Frederic M. Vinson]. In the years in between we saw each other. He would visit us when he came to town. His wife and my wife were friends.

After the election in 1960, he was here for a meeting of the Civil Rules Committee, and he came out to our house for dinner and just mentioned the possibility that I might come into the administration. Then when he came back right after Christmas to get ready for his job, he stayed at our house and signed me up, really before I had ever met Robert Kennedy [Rober F. Kennedy] and much less the president.

I had pretty much committed myself and Byron was careful, but I had the impression that he was willing to recommend me. He brought me in here one day. Robert Kennedy was sitting in what is now the conference room in the Civil Division and I waited in the anteroom there. I remember seeing John Seigenthaler [John L. Seigenthaler] and Angie Novello [Angela N. Novello], and I went in and just had a very brief conversation with him. I remember Byron said to him, "Bob, I would like you to meet somebody I have known for about twenty years and I think he would be able to help us as a lawyer." He told him a little bit about what I had done, and I imagine that he had talked to Bob about it before. We just had a very crisp conversation, and a few days later he called me up at my office and asked me if I would come and take charge of the Tax Division. It was about as simple as that.

MORRISSEY: Prior to the election, had you been in practice here in Washington?

OBERDORFER: Yes.

MORRISSEY: And had you worked at all during the election for the Kennedy-[John F. Kennedy]-Johnson [Lyndon [Lyndon B. Johnson] ticket?

OBERDORFER: I had made a contribution. I had tried to work, offered to work, and really had had no opportunity. I spent the fall practicing law, cheering from the sidelines. I was not political at all really. My heart was with them, but I had no experience at all in the campaign.

MORRISSEY: Do you know if other people had suggested other candidates for the same position here in this department?

OBERDORFER: Well, I had heard that there were some other people being considered as head of the Tax Division--Mac Asbill, Andy Oehmann [Andrew F. Oehmann]. I don't know this. This is just hearsay, gossip. There were a group of us here who were more or less recruited by Byron. I was one, Bill Orrick [William H. Orrick, Jr.] was one, Burke Marshall was one, Nick Katzenbach [Nicholas deB. Katzenbach] was one. I remember I was in here. I sort of worked with Byron when he was recruiting this group. He was staying at my house and we talked a lot about it. I remember one Saturday morning--I believe it was the Saturday morning after the inauguration--he decided he would like to see if Katzenbach would come back. He knew Katzenbach at law school and afterward, I guess. I really didn't. Byron called Switzerland on the phone one Saturday morning and Nick was here the next day, I believe, or Monday morning. It was just as easy as that.

MORRISSEY: The reason I asked that question is because I am wondering to what extent one's political activity would be a consideration in staffing so many of these positions in the Department of Justice.

OBERDORFER: I think Byron--his interview may develop it more extensively--but his expression to me always was that he wanted lawyers. He wanted this to be a law office. I think Bill Orrick had participated in the campaign, but Katzenbach had been in Switzerland during the campaign. I don't think Marshall did anything. I know I didn't. Orrick had worked out in California. Miller [Herbert J. Miller, Jr.] and Ramsey Clark were. . . . Well, I know Miller was recruited by Bob Kennedy personally and he was a Republican so he couldn't have been in the campaign on the Kennedy side. Ramsey Clark probably participated a little bit down in Texas, but I don't know that. Archie Cox [Archibald Cox], I imagine, was selected by the president. Archie had worked in

the campaign and had a very important position in it. He was sort of a brain trust, as I understand it. In a sense his position in the department is the least political of any of our positions. He has no contact with Congress or political people at all. He just represents the government in the Supreme Court.

MORRISSEY: Looking back over the thirty-four months that John Kennedy was president, what would you say were your major problems and your major achievements directing this division of the Justice Department?

OBERDORFER: The initial major problem was that the Tax Division, when we came here, was very seriously understaffed. The workload-- I have developed all this in testimony in respect to my budget so I don't need to go into it here, but this incident is worth reporting. I knew from the outside, and Byron knew from the outside, that the Tax Division was a patsy in a knock-down-drag-out litigation. The men here were so overworked and spread so thin that they could be forced to compromise on terms unfavorable to the government. They were not held in high regard by the bar or the bench so far as. . . . I don't mean not held in high regard. That is an overstatement. The bar and the bench recognized that they were understaffed and represented by young, inexperienced people. The average turnover when we came here was about twenty percent a year. The average tenure of the lawyer was two years and the strength was a hundred and forty-six or hundred and forty-nine or something like that, in legal staff. The case load per man was in the neighborhood of sixty or seventy.

The very first two or three weeks we were here Kennedy went through the whole department. He would have twenty or thirty people from each division in his office at six o'clock at night, and he served beer, and he would go around the room and ask each of them what he was doing and what he thought the problems were. Simultaneously, I had been looking around confirming my presumption from the outside that the place was understrength.

One night he had a meeting up there of people who had been in the Tax Division either ten years or more, or fifteen years or more--a very impressive, dedicated, able bunch of people. He went around the room. There might have been twenty of them. And from bow to stern, every one of them told him how badly overworked they were, how hard it was to meet their deadlines, and that they had to do less professional work than they were capable of doing and wanted to do because of the enormous over-extension. This corroborated and I didn't prepare this at all. I didn't know he had invited these people, although I had made the same remarks to him. After the meeting he said, "Find out how many more men you need and let's get them."

I came back the next morning and had my section chiefs in and reported to them--had a conversation substantially such as I am telling you--what my impression had been on the outside how it had been corroborated on the inside, and how dramatic this conversation had been the night before. Some of them had been there. "Now the attorney general has asked us to tell him what we need and he will try to get it. This is one of those historic moments when the tide changes. You can change the whole complexion of this place. You have the president's brother as the attorney general and he understands your problem. We've know it has been a problem here for ten years or twenty years." I told each one of them that I wanted a recommendation from him as to how many men he needed to do his job perfectly and not to negotiate about it. This was his chance to speak up. They came in with recommendations for increases in the staff and I cut them in half and sent them up to him. He authorized a supplemental appropriation and we got a supplemental appropriation increasing the staff, the legal staff, from a hundred and forty-nine to--well, I think it was in two bites--but the staff is now two hundred and twenty-six. That has just made all the difference in the world. With that we have been able, instead of just sitting back and letting plaintiffs sue us and beat our brains out when somebody sues the Tax Division, we very quickly notify the plaintiff to take his deposition. We bring him in and make him tell us why he thinks he has got a lawsuit. This extra manpower is very important.

The other major change along that line resulted particularly from the experience in this division and from the bar's impression that we were just running a training school with the attorney general's blessing and Byron's blessing. We now require every new attorney to promise to stay here for four years and that makes a tremendous difference. That increase in the experience level in the third and fourth year increases productivity and competence enormously.

I think the other major action in the Tax Division early in the game was the settlement of the relative jurisdiction of the Tax Division and the Criminal Division with respect to the organized crime drive. There was a movement led by a fellow, Ed Silberling [Edwyn Silberling] who came to the Criminal Division before Jack Miller, to take the criminal tax prosecutions away from the Tax Division on the theory that it was just another criminal case and that it should be used to punish criminals. We resisted that, I resisted that and won Byron's blessing to agree that the organized crime section of the Criminal Division would coordinate investigation of criminal cases including tax investigations conducted by the Internal Revenue Service. Prior to this, if the Internal Revenue Service made a recommendation to prosecute somebody, the file came to the Department of Justice. If they conducted an investigation and decided themselves not to recommend prosecution, the department had no opportunity to second-guess that. The Internal Revenue Service cut us off. Under the new arrangement, the organized crime section got

a look at every one of the investigations in the area in which they were interested. They were sent over, even though the Internal Revenue Service did not recommend prosecution. But in order to maintain our control-- really my point was to satisfy the courts that the criminal tax sanction wasn't going to be used just as a device to get people--we established-- and it was a struggle--or re-established our prerogative that all tax prosecutions, all cases that were actually prosecuted, would be reviewed by our office and the final decision as to whether to prosecute a particular case would be made by the Tax Division. We would apply to it the so-called criminal-criminal tax case, the same standards that we applied to the noncriminal-criminal tax case. In other words, the banker and the bookie would be prosecuted and the decision for prosecuting would be made by the same people and by using the same criteria.

MORRISSEY: In regard to tax prosecutions, was there a different attitude in this division during your direction of it and during the direction of your predecessors in the Eisenhower administration?

OBERDORFER: In the criminal work?

MORRISSEY: Criminal and tax generally.

OBERDORFER: Two things. I think in the criminal cases prior to the Kennedy administration, they were really pinched as far as personnel was concerned. I think that was the major thing. For example, it is my understanding that they almost never sent a lawyer from the Tax Division out to participate in or to try a criminal tax case. Those cases were always tried by the United States attorney. As a part of our effort and as a result of having more personnel, we started the practice of sending lawyers from this office out to try the major cases, cases that were in the OCD Program [Organized Crime Drive], the cases that were extremely difficult, and we also offered assistance to the United States attorneys. We just didn't write them letters, but we would send a lawyer out to Minnesota or down to Florida to help the United States attorney prepare and try his case. And I think that is a very important difference.

Also, in respect to civil cases, I think I have already emphasized the major aspect, mainly, that we have taken the offensive in the defense of refunds by taking depositions, making our own investigation at this level. Previously if a lawyer in this office had a question to ask a taxpayer, he would write a letter to the Internal Revenue Service to send an agent out to ask the taxpayer the question. They just didn't use the federal rules of civil procedure very much. I think that was because the Tax Division grew up out of lawyers who had practiced in the tax court which doesn't--I suppose this is all a technical complexity to you that doesn't mean much. Suffice it to say for this purpose that we have introduced here the same defensive tactics available to insurance

companies and transit companies in the defense of lawsuit.

We have also started demanding jury trials in cases where we think that the judge is hostile to the government and the jury would befriend us. For example, in Philadelphia we used to get our brains beaten out because the judges there--they have a fine bar there and the judges more or less accepted what the local lawyers told them and we were anathema. When we get a jury there of longshoremen and taxi drivers and they decide those corporate tax cases, the government does better. Incidentally, I am on a committee which is making a study sponsored jointly by the American Bar Foundation and the Brookings Institution on the administration of the tax law. I asked this committee one day what their view was of our practice of demanding jury trials in situations like this, in civil cases. They thought it was quite correct.

I suppose the other thing that we have done during this administration is to concentrate more on--we accept the fact that the taxpayer is entitled to a jury trial. That is the unique thing about our system that people don't appreciate, the fact that any taxpayer can pay his tax and sue for his refund, or pay a disputed item and sue for its refund, and have the decision of whether he owes that tax or not made by a jury of lay taxpayers. Technicians often have thrown up their hands at what an irrational thing this is for a government to do. I've taken the position that it is the ultimate test of the fairness of our system, that we are willing to submit the enforcement of our tax law to a jury. We have spent a lot of time training these young lawyers of ours to deal with jury cases. They are not just tax lawyers, they are federal jury lawyers. We had an old fellow by the name of Charlie Mahaffie [Charles D. Mahaffie] Jr. who had tried cases against me when I was in private practice. He is now over seventy. We took him out of the line of supervision and trial and he is just a teacher over there. He conducts seminars and critiques of the jury trial. We are winning a lot more jury cases than we used to win, particularly in the South. We even won a case in Arkansas. We hadn't won a case in Arkansas in over ten years before a jury.

MORRISSEY: You gave as an example of this the case in Philadelphia of a jury of longshoremen and taxi drivers deciding a case of corporate taxes. Did the division during your time here take a much different attitude towards corporate taxes than the division took during the Eisenhower years?

OBERDORFER: No, I don't think so. I don't think that substantively we have been motivated politically at all. I think we've been quite evenhanded so far as that is concerned. You see, the Tax Division defends suits brought against the government. It doesn't go out and assess deficiency. We are just lawyers. Our

responsibility is not a policy responsibility on a tax law except on a case-to-case basis. We have to support the decisions and the policies made and laid down by the Treasury Department and the Internal Revenue Service. We have to win their positions in court.

MORRISSEY: The other day in talking about this interview, you mentioned some names to me of criminal tax cases and I wrote them down. I have them here and I don't know whether chronologically they exist in a sequence other than the one I have. Suppose I just run through the names and you can pick them as you want and talk about the various cases: Goldfine [Bernard Goldfine], Adams [Sherman Adams], George Chacharis, Bidwell [J. Truman Bidwell], Coppola [Michael Coppola], York, [Alvin C. York], Beck [David S. Beck], and Adam Clayton Powell.

OBERDORFER: Coppola was a gangster down in Florida. The attorney general knew that the case had been pending and took an interest in it. This was one of the first criminal cases that I supervised. The problem in the Coppola case was that the witness against Coppola was his former wife who was in deadly fear that she would be assassinated. Do you know that?

MORRISSEY: No.

OBERDORFER: And was most reluctant to testify. Because of the attorney general's interest, because this man was an important criminal, when the Internal Revenue Service recommended prosecution and our staff agreed to the recommendation, we had the choice of sending the case down to the United States attorney in the southern district of Florida--this is a very good example of how well the place was run--and letting him handle it in due course. I accepted the attorney general's definition that this was a priority matter, and I took two lawyers. One is an assistant chief of the criminal section, a man by the name of Fred Ugast [Frederick B. Ugast] and I forget who assisted him now, but it was one of our good men who is still with us. Instead of sending a United States attorney, I assigned the case to them.

They went down to Florida and talked to this girl and found out that she was frightened. We arranged for the Internal Revenue Service to guard her and made her feel physically secure. After she went before the grand jury, we arranged for her to live at the Homestead Air Force Base, still under guard at her request. She was free to go any time she wanted to. She wasn't detained. She was just there. She was a very nervous, upset person. She decided she wanted to go to Europe, and we couldn't keep her from going to Europe. Fred Ugast was down there with her and arranged on just an hour's notice to have special agents of the Internal Revenue Service go to Europe with her. They got on the boat and they guarded her in the cabin and they followed her all over Europe and they brought her back.

This happened because the case was set for trial and got postponed and so extended the time in which she had to be guarded. She testified; she was cross-examined, threatened in court. Coppola was convicted, sentenced a year and served the year he was sentenced. She testified to seeing money in the house, and this was corroborated in some way. After the trial she went back to Europe and committed suicide.

But I would cite that as a vignette of our style. I would say that one of the characteristics was sort of a variation of a military concept in close combat of generals to the front line. You will find that all through the operation here, that when something is going on, Bob had the assistant attorney general right there where it was happening.

In the Goldfine case, it had already been set up when I came here. He had just been declared insane up in Boston. There were extensive negotiations with him because he kept saying that he was going to name and identify persons who had paid off. Of course, there was a concern to the government that if there was corruption that it would be exposed. He never did come through on that, and finally Ed Williams [Edward B. Williams] agreed to start having negotiations about pleading him guilty. There was a Republican United States attorney in Boston by the name of Elliot Richardson [Elliot L. Richardson]. I don't think the Kennedys liked him at all. But I persuaded Byron to allow Richardson to stay in office and then even after he was out of office to continue to have responsibility for the Goldfine case because he had prepared it for trial, and I thought it was important to have that handled in a nonpolitical way.

But when it got down to negotiating the plea of guilty for Goldfine--again I think this is an example of our style--we didn't leave it for Richardson to negotiate a plea of guilty with Ed Williams and we didn't meet Ed Williams by himself. I arranged to confer with Richardson. I went to Boston myself and met with Williams and his associate in the apartment of the trial judge on Sunday before the case was to go to trial. We didn't talk to Williams outside the presence of the judge. We had a stenographer present and there is a transcript of that conversation. This Goldfine was a terrible liar and he could claim vendetta and he was talking about Adams and all that kind of thing.

I would cite that as an example of the way Bob wanted this game played. In other words, you don't stint and you are willing to delegate but only so far. He didn't go to Boston, but he did meet with Goldfine himself. He came down here one night and met with him. We all waited down in Byron's office while Bob and I don't know who were with Goldfine. I don't know whether Williams was or not. Then Bob came down and told us about it. Goldfine was saying that he was going to identify where all his money went.

Sergeant York is a fantastic thing, another good example. I had been here about two weeks. The phone rang one night about 7 p.m. and it was Bob Kennedy. "Do you have a case involving Sergeant York?" It just so happened that I had seen in a pile of things that we did have the name of Sergeant York, and I said, "Yes, I do." It also so happened that I had done--I am from Birmingham, Alabama, and had handled tax cases down there before the court in Birmingham, and one of my early concerns was to get acquainted with the lawyer who was our representative in Birmingham. We send a lawyer down to each of these districts to try a case. The man's name was Tom Frazier [Thomas A. Frazier, Jr.]. I had some conversations during the preceding days with Tom Frazier about work in Birmingham. I called down to the office where cases like Sergeant York would be handled. There are thirty lawyers in that office, and the only fellow there was Tom Frazier, and I asked him if he could find the Sergeant York case. Talk about the luck. There are one hundred and forty-nine lawyers. I didn't know who had it; I didn't know where it was. Tom Frazier said, "Well, that is my case." I said, "Well, come on around." He came around and brought the file. He was very chagrined at having that case identified because what it was was that York had sued for refund for one year, but there was a much larger deficiency for the preceding year pending in the Internal Revenue Service. Our predecessors had decided that instead of trying to force that case to trial and have a spectacle of York being dragged through the courts, they would just wait until he died and then dispose of it. So Frazier told me about the case and I called Kennedy back. It couldn't have been ten minutes, and he thought I was a whiz. He thought it was the luck of the Irish, and he said, "Congressman Evins [Joe L. Evins] from York's district is up here and he wants to get a bill to relieve Sergeant York. Can you come up and talk to him?" I said, "Well, Bob, I could come and talk to him and I find that we have some responsibility to the case. But the major responsibility is in the Internal Revenue Service. We will get them over here."

So I asked Frazier if he knew who was handling the case in the Internal Revenue Service. He did. We called the guy. As I recall, we got him at home and got him down here in about fifteen minutes. His name was [Singleton] Wolf. We went upstairs, both Frazier and Wolf. We walked into the attorney general's office. There was Congressman Evins, York's congressman. Both Frazier and Wolf were from Congressman Evin's district, they were his constituents, and they knew each other, old buddies. Evins just couldn't have been more excited to do something with these guys. Bob said, "Why can't we settle the case?" We told him that we didn't think we could, that what had happened was that York had written a book and then hadn't paid tax on the proceeds and then he had paid tax at capital gains rates and was suing to get the capital gain back and he just couldn't recover. Bob said, "Why don't you get a bill, draw a bill?" I called in then some of the old pros in the office. Mannie Sellers [Abbott M. Sellers] was one of them, a man who has been here for about thirty years. He said, "We have consistently over the whole thirty years opposed private bills for

the relief of taxpayers. The department just has to oppose them." So I wrote a memorandum to Bob, saying that we cannot recommend a private bill to forgive this tax and--I think this was my idea--that the only thing we can do is to recommend that Congress appropriate funds to compensate York, to pay York's tax for him. He said, "Well, let's do that." So we drew up a bill to do that. We sent the bill forward to Sam Rayburn [Samuel T. Rayburn]. I never was in on this. But you know what finally happened to that thing? Sam Rayburn, out of his own pocket and passing the hat, raised the money to pay York's tax. So we never introduced the bill. I don't think the bill was ever introduced and York's tax was paid by Rayburn and all of these other people. Someday somebody might want to talk to Congressman Evins about that. It was really a most--again, this is all in the first three or four weeks.

But I am sure, I believe, that my reputation with Bob Kennedy was established, at least the beginning of it was established, by that dumb luck of having that fellow here that night and turning up those two Tennessee boys as the lawyers for the government in this case.

Incidentally, after that happened, we established a system here whereby in each section somebody had to be on duty. I think it continued up until 8 p.m., one secretary and one lawyer in each of the sections, and that persisted until September 1, 1964. We cut it back, when time went back, to 7 p.m. What other kind of case have you got there?

MORRISSEY: Well, we talked about Coppola, Goldfine, and York.

OBERDORFER: Adam Clayton Powell. The first day that I came here after my appointment was announced, but before I was in office, I came over here to meet with the career people who were running the division in the absence of the. . . . One of them was this Mannie Sellers that I mentioned to you, the acting attorney general. Guy Tadlock [C. Guy Tadlock], who was the executive officer here, was the first assistant. They sat down--and I think they had prepared very well for the transition--and they explained to me all kinds of things about how many men there were, what the budget situation was, on the eve of the budget hearings in the next few days. Then they got into some cases and they talked about some innocuous things and then they got to the end of that in two or three hours and said, "We have got a couple of cases we do have to tell you about." One of them that they mentioned was Goldfine and all the horrendous implications of that.

They said, "There is one other thing here that we have to tell you about. We tried Adam Clayton Powell a few months ago and he was defended by Ed Williams. He was acquitted on two counts and one count ended in a mistrial. The United States attorney in New York recommended that that count be dismissed, but your predecessor just never got around to acting on that recommendation. So you have to decide whether to

retry Powell or to dismiss the case against him. I don't remember now, but the file is fairly complete, the play-by-play of this. I finally decided that we shouldn't retry Powell. I remember working on this case with one of the really fine lawyers, old timers here, by the name of Dewey O'Brien [James D. O'Brien] a boy from Louisiana, who is another assistant chief of our criminal section. We worked very hard on a press release announcing our decision to dismiss, which emphasized, of course, that the Republican United States attorney in New York had recommended dismissal.

Before we could get this thing, I had talked to and discussed this with Kennedy. No pressures from him, let me just add this right now in case we don't ever finish this. In the whole time that he was here, never once did he ever try to push me to indict somebody or to push me not to indict somebody, or to settle a tax case or not to settle it. I don't know what the practice was before or what it will be after, but his attitude and actions with respect to criminal tax cases was that he was interested in them, he wanted to be informed about them, he wanted to discuss them, and he would discuss it on the merits. Occasionally I would call him up and tell him we were going to indict some person who was important to him and he would say, "Well, thanks a lot." It was clear that he didn't like it, but never flinched a minute on any of this, very remarkable.

But on Powell I had discussed with him what the problem was. The major problem was that in the year that was left, we discovered that if Williams defended the item correctly, as I recall it, he would prove that Powell had actually overpaid his tax in the year with respect to which we were going to be trying criminally. But in any event, while we were working very hard on the timing of this, John Seigenthaler, who was Kennedy's assistant, came back one evening and said that Bob was going up in the elevator on the Hill with Powell and told him that we were dismissing his case, and, of course, we hadn't announced it yet. So there was quite a scramble to try to get the thing announced before Powell announced it. The press release of the Powell case was one of the important documents that I had a hand in in those early days.

Chacharis was another very important example of Kennedy's determination to provide real leadership and law enforcement. Chacharis was the mayor of Gary, Indiana. He carried Gary, Indiana for President Kennedy by the largest majority that anybody had ever carried Gary. He raised all kinds of money for the Kennedy campaign. The Service apparently had had a case on him before we came in and developed it, but it was also handled by the Criminal Division, OCD unit. A fellow by the name of Jay Goldberg down there was developing the case.

The charge was that Chacharis as mayor had required people getting various city permits to pay kickbacks. Chacharis created dummy corporations,

engineering service corporations and things like that. The kickbacks were paid to those corporations under the camouflage of being payment for engineering services. There weren't any engineering services, they were just kickbacks.

It was recommended that we indict Chacharis and the whole group of politicians out there. I remember one Saturday morning I got a call from Dick Donahue [Richard K. Donahue] at the White House. Chacharis was going to be named ambassador to Greece and what is this that we are doing, indicting him. I remember getting Byron White into my office--we had two phones--and Byron and I told Dick Donahue, who was one of the president's special assistants, the story of Connelly [Matthew J. Connelly] and Caudle [T. Lamar Caudle]. Connelly, you will remember, was a White House assistant who was indicted along with my predecessor Caudle for fixing tax cases. Then we went up to Kennedy and told him what this thing was about and he said, "I want you to look at this case very carefully. I don't want to go diving into this unless you're sure you're right. But if you are sure you are right, you have to bring the case." Quite a long story.

Again, well, this is a real travail. We sent the man who I understood to be the outstanding criminal trial lawyer in the criminal section, a man by the name of Vince Russo [Vincent P. Russo]. He was particularly dear to me because he grew up in Birmingham and I thought, "There is somebody I can trust." So I promoted Russo, made him the senior trial attorney in the criminal section, created a special job to dramatize the old-time line trial lawyer. We sent Russo out to Gary, Indiana, to prepare this prosecution--the best man we had--and then gave him all kinds of assistance. By damn, on a Memorial Day weekend, the Criminal Division lawyer and the FBI [Federal Bureau of Investigation] caught him shackled up with a woman employee of the mayor and there we were at midstream, this most delicate prosecution. I had to tell Kennedy about that. A question of what to do. We brought Russo back and let the man who was assisting him take charge.

There was a certain amount of tension between our office and the Criminal Division this time. These fellows, Goldberg and Silberling, we thought, were not fair-minded and really were killers, prosecutors using the tax prosecution as an instrument of vengeance and punishment without regard and not as an aid to the enforcement of revenue law. There was a lot of bad blood between our office and the Criminal Division relating to both of those two fellows, both of whom left. I suppose that the bad blood had something to do with their leaving. In any event, Goldberg was one of the people who had caught Russo. Goldberg was anathema to the Indiana politicians too so we got Goldberg out of there. Two other lawyers, two of our good lawyers, tried that Chacharis case and got conviction. Chacharis is just getting out of prison now.

MORRISSEY: Beck, Bidwell, and Adams.

OBERDORFER: Now the Bidwell case is one in which there was a prosecution of the chairman of the New York Stock Exchange. Do you remember it?

MORRISSEY: Yes.

OBERDORFER: Prosecution had been recommended by the Internal Revenue Service on the basis of an investigation that began back in 1958 or 1959. He, we thought, falsified his charitable and expense deductions by just guessing them and adding to what he guessed. The case got off to a bad start because somehow or another Clark Mollenhoff [Clark R. Mollenhoff] of the Cowles Publications found out that we were sending the case out before it went out. I never knew and still don't know how that leak occurred. It was very embarrassing. I didn't know whether the attorney general had inadvertently mentioned it to Mollenhoff or Ed Guthman [Edwin O. Guthman] had inadvertently mentioned it to him or whether he was up in the attorney general's office. I always thought he might have just seen a paper sitting on that desk. I, of course, reported to Kennedy very carefully about the case. I also remember that just prior to our returning the indictment referring the case to our United States attorney, we had word that Bidwell was going to be entertained at the White House and so we had to tell somebody at the White House to cancel his invitation, but I think he came anyway. That's another possible source of things. I just didn't ever know.

It was an issue in litigation as to whether or not we had violated some rule. Really there isn't any reason why you shouldn't know that a man is to be indicted. We can arrest, as we did down in Mississippi the other day, people before the case is presented to the grand jury. But there was a big issue made of it and it may still be an issue. There may be a congressional investigation yet of our operation in that aspect of it.

It's been charged that Kennedy did that just to get a headline. This isn't true. He didn't want that case brought. He didn't object to it being brought, but there was no motivation. He certainly didn't initiate it; he was perfectly passive about it. I think that it hurt the Kennedy administration with the business community, part of the trouble along with the steel crisis that made business suspicious. It was just the fact that we would take on a sacred cow. Of course, we lost the case. We had a mistrial the first trial, and then the second trial--Bidwell refused to take the stand in the first trial--in the second trial, he said he wouldn't and then he got on the stand at the end and, I'm sure, manufactured a story about a tin box where he had this cash hidden. Nobody believed him but the jury. Quite an achievement by Simon Rifkind [Simon H. Rifkind] who was Bidwell's lawyer. But again we had an assistant chief of the criminal section, namely Dewey O'Brien, in New York to supervise the conduct of the trial, and I was there myself on a number of occasions

when the question of this leaflet edition was in the court room. Again it was the generals to the front line.

Beck is important because it was, of course, a case that had been developed out of Bob Kennedy's work as the head of the counsel for the McClellan Committee [Senate Select Committee to Investigate Improper Activities in Labor-Management Relations]. When we got here, it had already been tried. The appeal was pending in the Court of Appeals for the Ninth Circuit. The charge against Beck involved four counts of tax evasion, evasion of tax on amounts which he had stolen from the Teamsters [International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America] money that was in the treasury of the union that he used himself, and two other counts of falsifying the Teamsters' return to conceal the fact that the money had gone to him for his purposes.

While the case was pending in the ninth circuit, the Supreme Court decided the case of James v. United States (366 U.S. 213) in which it held that although the embezzled funds were taxable as income to the embezzler, prior decisions of the Supreme Court had indicated embezzled funds were not income. These prior decisions were reversed so far as the substantive tax liability was concerned, but the Supreme Court said that it would be unfair to try anybody criminally for failing to report embezzled funds while there was a Supreme Court decision indicating they were not taxable. So we had the decision of what to tell the court of appeals about Beck's case. Actually, I had a conversation with the trial judge about that. He heard that we were going to confess error on the four evasion counts and he was just absolutely adamant. At that time he was trying the Mickey Cohen [Myer Harris Cohen] case, Judge Boldt [George H. Boldt] was. I went out to Los Angeles to talk to him and explained to him why we thought we had to dismiss the evasion counts and came back here after he had fussed with me about it and made some changes. I had to explain this to Bob Kennedy, who had a big investment in the Beck case, and he argued with me a little bit, tested it, I suppose he talked to other people about it, but never flinched at the decision to tell the court of appeals in a straightforward way that we had not requested the proper jury charge in the trial and as far as the four counts were concerned, we would have to confess error. The court affirmed the conviction on the two false return charges and Beck served his sentence.

MORRISSEY: Adams is the last name.

OBERDORFER: I think we ought to do Adams separately sometime. That is such a sensitive thing. Let's not mix that up with this tape.

MORRISSEY: Could you tell me about the du Pont legislation?

OBERDORFER: Yes, that is fairly thoroughly recorded. That was a proposal to provide tax relief from the stockholders of du Pont [E. I. du Pont de Nemours & Co.] which had been a subject of a decision by the Supreme Court, that du Pont had to divest itself of its interest in General Motors Corporation. Du Pont owned twenty-five percent of all the stock of General Motors. Under the decision of the Supreme Court, du Pont was directed to get rid of that stock. The only way to get rid of it was either to sell it or to distribute it to their stockholders. If they sold it, theoretically, that would depress the market in General Motors stock very severely; if they distributed it to stockholders, the stockholders would receive this General Motors stock, but they would be required to pay an enormous tax. So those arguments had been made to the Supreme Court, that the Supreme Court shouldn't order the divestitures because of these market and tax consequences. The Supreme Court went ahead and ordered the divestiture anyway and du Pont was just absolutely the most potent, smoothly running, overwhelming lobby that I have seen or heard about, headed by Clark Clifford [Clark M. Clifford] key man with this legislation.

The Antitrust Division wrote a letter to the committee of Congress without clearing with the deputy attorney general, without clearing with the attorney general. Actually the letter wasn't even signed by the Assistant Attorney General Loevinger [Lee Loevinger]; it was signed by Kirkpatrick [W. Wallace Kirkpatrick], his first assistant, saying that the Department of Justice had no objection to this legislation. This was on file up there.

I had made a talk at a tax forum while I was in private practice in the spring of 1960 about the du Pont case before it had been decided by the Supreme Court. Just as a gag, I had written and delivered an imaginary opinion of the Supreme Court on the du Pont case before the Supreme Court had decided. I hadn't looked at that thing in a long time, but I just had a ball doing it. I guess I had told Byron about this at some point. He called me in there one day--I don't remember all the play-by-play--and he asked me, Should we be called to testify in the du Pont case? He couldn't testify because he had been a lawyer for du Pont out in Colorado, and he didn't have confidence in the Antitrust Division, this episode having occurred. He asked me to go up and testify and, as he put it, throw a little block in them. He told me that the White House was interested in expressing some hostility to this bill. We went over, Byron and I, and talked to Mike Feldman [Myer Feldman] at the White House. I remember this bill was to provide an amendment in the Internal Revenue Code so that any divestiture would receive the treatment that the du Ponts wanted, mainly that if the stock of a subsidiary was distributed to the parent stockholders, the parent stockholders would not realize taxable income unless and only to the extent that the value of the subsidiary stock exceeded the basis of the parent stock in the hands of the stockholders. I am just saying that for the machine, but it is in the record. That was to be the

rule generally for all divestiture. We said that if you pass that rule, people would go out and buy corporations and merge. Nothing could be nicer than to be able to merge, acquire corporation, sit on it until the Antitrust Division made you get rid of it, and then have a spin-off tax free. One of the brakes that existed deterring companies from merging was the advice of competent, conscientious lawyers who would tell the company that it was against the law to acquire a situation that would be a monopoly. But lawyers don't persuade their clients entirely on moral issues and this antitrust area is elusive anyway. What will happen will be that a lawyer will be asked, "What are the consequences if we do it, what is the worst that can happen to us?" If this bill had passed, what the lawyer would have to say that the worst that could happen to you would be that the Antitrust Division would sue you and you would fall down in the privy if they won their suit and you would come up smelling like a rose because you could just spin it off. So we opposed the bill on that ground, and then the pressure became very great.

I testified before the [House] Ways and Means Committee opposing the thing. Between the time of the testimony before the [Senate] Finance Committee--I don't have the date of it--I got pneumonia, actually before. While I had pneumonia, Byron called me to go down to the White House to see the president about the du Pont bill. I went down there. Dillon [C. Douglas Dillon] was there, Bob Kennedy was there, Stan Surrey [Stanley S. Surrey] was there, and I remember Bob asked me first, "Do we really oppose this thing?" I had to say that if Congress wanted to give du Pont this relief, there was no basic objection to it so long as the bill applied only to du Pont. Byron and I had worked this out. Du Pont could get this relief and protect the market and all kinds of things.

I remember two particular remarks at that conference which are worth recording for history. I remember at some point the president asked Dillon his recommendations. Dillon said, in effect, that he wanted, he recommended, the legislation, and that the president indicated that he wouldn't veto the legislation. He [Dillon] said, "The reason that I am doing this is that I am thinking of your image, Mr. President." I remember the president saying at some point, kind of rubbing his hands, "Is there anything else that we can squeeze out of this thing before we let it go?" I think he was talking to Senator Kerr [Robert S. Kerr], or to Clark Clifford, I don't know, or somebody was.

In any event, we made it clear that if the bill were amended so that it applied only to du Pont and if the divestiture occurred in three years instead of ten years, we thought that we could say that because that would reduce, assuming that there was a reason for du Pont to get rid of its General Motors stock, that it was bad for business or bad for economy for them to hold it, the quicker they got rid of it the better. So we said that we would approve of the bill if they got rid of it in three years.

There was one other condition that was attached, I don't remember it now. I had never testified before a congressional committee before. You never know whether you can do something till you have done it. I was really rather set up at the way it went. But my cross-examination by Senator Kerr was just exactly the toughest forensic experience I had ever had. I have done a lot of debating and a lot of arguing and this was the sharpest, quickest, toughest mind I have ever confronted, and that includes Hugo Black and a lot of other very bright people. That is on the record of that testimony.

MORRISSEY: Do you have any recollections of any other meetings with the president or any conversations with him?

OBERDORFER: Yes, I had two other conversations that I remember very vividly. In the summer of 1963--this gets into the civil rights area-- I was designated by Bob Kennedy to coordinate the relationships between the department and the White House with the several groups of business leaders, religious leaders, teachers, labor leaders, women, that he paraded in there to drum up public support for the first voluntary desegregation in public facilities and then the legislation itself. The day of the meeting of the lawyers committee I had lunch with Nick Katzenbach and I met with Clark Clifford, Bernie Segal [Bernard G. Segal] and Lloyd Culter [Lloyd N. Cutler] to plan who would run the lawyers committee. We got Segal to agree to run it and to get Harrison Tweed to be co-chairman. This was at noon for a meeting at four o'clock or five o'clock. Nobody had invited Katzenbach to the White House and I didn't think it was my job to do it. It was the attorney general's. I was there and so about three o'clock in the afternoon I went up and apparently there was some stir because Katzenbach hadn't been invited to the meeting. So then I said, "Why don't you take all the assistant attorneys general? This is a bar meeting." So we all went over there and we drove by the president's office there and the whole crowd of us went in to the side entrance. I remember standing by his desk and he was sitting there with his legs crossed so that his calf was horizontal to the ground, his knee was to the ground. I remember noticing what a powerful big thigh he had like a professional football player. The conversation was substantially, "Well, who is keeping in touch with all of the people?" And I said, "I am, Mr. President." Bob said something about, "He is doing a good job," or something like that, and about that time the phone rang and I had to go out and talk to Bernie Segal to get him to agree to be the co-chairman.

Another time I met him was down at the Orange Bowl [Miami] after the Cuban prisoner rescue. He invited the government people and the business people who worked on that to come down, and we were flown down. The plane got there while he was speaking, and we were set off in a corner at the Orange Bowl. After he was finished, he drove over and came up to us and said, "Who is in charge here?" I went up and told him that I was and he went around and shook hands. Then, I guess, also right after the prisoner thing, the day after Christmas or something like that, he called

me up and said something to the effect that "You fellows did a great job putting that thing together in thirty days."

Then Wednesday night, November 20, which was Bob Kennedy's birthday, was the night of the judiciary reception--the next day he went to Dallas--and we were over at the White House. My wife was standing there and he came up to her. She introduced herself to him. He said to her, "You're Lou Oberdorfer's wife?" and she said, "Yes." He introduced my wife to Jackie and then they sent for me and I went over and had some conversation with them. He was talking about the Cuban prisoner affair. I think these were the only times, except for receiving lines and things like that, the only personal conversations I had with him. They are not very extensive, they are just a piece of business. The longest, most extended conference was about du Pont.

MORRISSEY: In regard to this National Amateur Sports Development Foundation, earlier this morning I went through the folder in your files containing material about it and I don't understand how you became involved in it.

OBERDORFER: Well, I think I became involved in it because Robert Kennedy, according to John Nolan [John E. Nolan] asked me to see if I could get it off the ground or help them get it off the ground. They hadn't been able to get anybody to take the responsibility for it. The president was interested in it. I had had these contacts with the business community by this time and in the civil rights area and in the Cuban prisoner transaction, and he thought that, I am just guessing, John Nolan told me, that he wanted me to see if I could provide a little more momentum to the efforts that were being made at the White House to find leadership of the board and a form of operation.

MORRISSEY: I would gather that this whole project was still in the beginning stages at the time of the assassination?

OBERDORFER: Yes, it was very much just a dream. It was a response, though, to the . . . The thing that was important to the Kennedys was that the United States was not putting its best foot forward in athletics. It was getting clobbered in the Olympics. There were resolutions to that. It required a mobilization of effort and interest. Apparently there was--I don't know the details of this, but Ed Guthman probably does. Apparently this relates to the controversy with the AAAU [American Amateur Athletic Union] that General MacArthur [Douglas MacArthur] had helped resolve. It was apparently--I just don't know the background. I think one reason possibly that they asked me to look at it was because I didn't have any background. I could be a man from Mars and start from scratch with it.

MORRISSEY: Is it fair to assume that nothing ever happened to it?

OBERDORFER: As far as I know. I don't know what happened to the Johnson administration thing. Ted Reardon [Timothy J. Reardon, Jr.], who left very shortly after the president was killed, was the man who had the responsibility at the White House.

MORRISSEY: Moving on to the judges, how did you become involved in the matter of selecting candidates for the judgeships?

OBERDORFER: Well, this relates to my personal relationship with Byron White. In this period when he was staying at my house and the first few months here, I was really involved in an awful lot of his work, particularly personnel. I talked to him about who would be the other assistant attorney general and was counseling him a great deal about that. So far as the judgeships were concerned, I suppose he particularly looked to me for advice about judges in areas I would know, people who came from Yale Law School, or the New York judges where I had had some experience, some contacts, and most of all with Southerners. I was one of the two assistant attorney generals who were Southerners, the other being Ramsey Clark. My principal role, as I recall it and reconstruct it, was to establish communications with lawyers that I knew and trusted in the South, to solicit suggestions from them and check out with them the people who were recommended by others. That is substantially what I did. I would send in some names or mention some names to Byron from time to time, and then he would ask me and I guess a lot of other people to make an estimate for him. Have you seen the form that we prepared? I can't remember whether I prepared that or he directed that that form be prepared. These were the criteria he wanted. I farmed this out in my office. There were so many that I had different people in my office as the point of contact. I would call, say, five lawyers in Alabama and tell them that this man was being considered and I would appreciate their doing any checking they wanted to do and give a candid answer to the questions that were stated in that form. I would tell them to call Mannie Sellers or some high-level person at my office. We collected the information that way and sent it on in to Byron and then I would have some conversations myself with particular lawyers then.

MORRISSEY: Did you restrict yourself entirely to the southern states?

OBERDORFER: No. I didn't restrict myself. This is the way it worked. No, I remember talking about judges in New York. I don't remember offhand any other place, but that was the area where I had contacts where these other fellows didn't. I had done a lot of work and knew. Mind you, none of my checks were political checks. These were lawyer competence checks, these were professional, these were Byron's efforts to establish professional competence.

Now I did have sort of a political role to play, of which I am not altogether proud, in the appointment of Judge Allgood [Clarence W. Allgood] in the northern district of Alabama. The department first determined that Allgood-- the bar association said that Allgood was not qualified. He had been a referee in bankruptcy down there. He hadn't gone to law school until after he was a referee in bankruptcy. He was a political henchman and hanger-on of Senator Hill [Lister Hill]. I want to relate to you at some point the conversation I had with Senator Hill. But Senator Hill I have known for a long time and he has always been sort of a patron, not that he had done a whole lot for me, but I just felt he did stand up for me and wrote a letter for me when I was nominated here, although it was Senator Sparkman [John J. Sparkman] who came and testified. In any event, Hill had been told that he couldn't, that the department wouldn't recommend, that the president wouldn't appoint Allgood, and Hill was adamant about it. He had never heard of such a thing as the president refusing to appoint a judge that a senator had recommended and it was a point of personal honor to him. He was just very upset about it.

I had done some checking on Allgood and I hadn't recommended anything one way or the other. I'd reported. But then it developed, . People began to tell me that Allgood, while he wasn't a superlative lawyer, was a man of intellectual curiosity and he read books and he had a lot of common sense and he was close to the people, had a lot of human understanding. What is a federal judge anyway? He is not a Supreme Court Judge. He has got to deal with sentencing people who steal cars and things like that, presiding over a jury, and understanding the community. Then it developed that Hill was going to make the president, almost literally make the president, appoint Allgood. So there was a question of whether Allgood was appointed with the bar saying he was qualified or not qualified. If the president was going to have to appoint him anyway, it was better if the bar said he was qualified. So I got hold of a man I have known all my life down in Birmingham. First I talked to Judge Lynne [Seybourn H. Lynne], who was the senior judge down there, who was very much for Allgood, and got Lynne to confirm to me what I had heard--that Allgood had all this intellectual curiosity and read books and whatnot. Then I got another fellow whom I have known, who is married to a girl who went to Sunday school with me and went all the way through school with me. I asked him about this and he confirmed it and he wrote a letter up there. Allgood was one referee in bankruptcy and this fellow was the other one. I got him to write here to the attorney general, saying how Allgood read books. Then in Byron's conference room--he put me in the room there with Bernie Segal, who was the chairman of the Judiciary Committee--I persuaded Bernie Segal that the bar was wrong in saying Allgood wasn't qualified, gave him a big argument which, again, I was surprised at my eloquence, really. And he got somebody to go back and recheck Allgood and they said Allgood was qualified. Allgood became the judge.

Allgood was very important during the integration of the schools in Birmingham and during that Martin Luther King thing because he had good contacts with the Negro community down there, although he is a segregationist and his motivations were terrible. But he is a politician and he knows that city. He had contacts, as I say, with the Negro leadership; he had contacts with the Ku Klux Klan and with Bull Connor [Eugene Connor] and with the city government and the state government. Instead of sitting as a judge, he moved into that power vacuum and literally directed the mayor and everybody else about how to manage these two crises. I think that the good will that we established--he knew we went to bat for him, he knew I went to bat for him, and I was down there--I think the contact with Allgood and standing up for him helped there, but I don't think he is as good a judge as we should have had.

An episode that I think reflected very well the freedom from political interference with our law enforcement responsibilities which we established under the Kennedy leadership is illustrated for me in a conversation that I had with Senator Hill on the day after I had had a hearing before the Senate Judiciary Committee on my confirmation. Before I was confirmed, the day after the hearing on my nomination, there was a hearing, I think, on Nick Katzenbach's nomination, somebody's, one of the assistant attorneys general. I went up with my wife to be a spectator. We were just giving moral support to our brethren. While I was in the hearing, I got word that Senator Hill wanted to see me. He had supported my nomination in the sense that he had indicated to the committee that he favored it, but he had not testified and I had not seen him personally. I really thought when I had the message that he wanted to see me that he wanted to congratulate me, and I took my wife along. He, of course, is from Montgomery, Alabama, and my wife is from Montgomery, and my father-in-law and Senator Hill were childhood friends. They had gone to school together and had known each other all of these years. So I went into Senator Hill's office with my wife and he did congratulate me, but that wasn't what he wanted to see me about.

He asked me if I saw the man in his outer lobby, and I noticed him. He told me who that man was. I can't remember his name right now, but he was somebody with respect to whom the Internal Revenue Service had recommended to criminal prosecution. So he said, "What should I tell him? What can you do for him?" I hesitated for a moment and I said something to the effect, "Senator, I have just had my hearing and I haven't been confirmed yet, but I think it is just exactly the right time for us to understand each other about this kind of thing. The very worst thing for the administration would be to have me amenable to you on tax prosecutions. That would be the worst thing for you because every Tom, Dick and Harry would come to you and ask you to do something about his tax case. There have been scandals in the administration of the tax laws in previous administrations, and I know the Kennedys don't want any of this in this administration." I never talked to them about it, but I just knew that,

assumed that. He said, "Well, I couldn't agree with you more, but what shall I tell that man?" I said, "You ask him if he has a lawyer. If he doesn't have a lawyer, tell him to get one, and if he has a lawyer or after he has gotten one, tell him to write to the Tax Division of the Department of Justice and request a conference about his case. If he hasn't had a conference, he will be afforded one. He'll be given a fair opportunity to explain why he should not be prosecuted. If my study of the thing indicates to me that--between ten and fifteen percent of the cases recommended for prosecution are not prosecuted because people persuade the Tax Division and the Internal Revenue Service they are wrong. . . . And if he can't persuade the Tax Division not to prosecute him, then he should defend himself in court. He is innocent until he is proved guilty." I said that just so we could get off on the right foot, "Since you have talked to me about this case, I am going to disqualify it, and I am not going to participate in it. Normally a fellow in my position is more sympathetic to taxpayers than the men on the line who are career people and look at the thing through a narrow government point of view. So I think you ought to know that whenever I get an approach like this, the likelihood is that I won't participate. So you can tell people that ask you to call me that you are just doing them a disservice if you do call."

I did disqualify in that case. My staff nevertheless decided that it should not be prosecuted. But I have never had another call from Senator Hill's office or from Senator Sparkman's office, and with one exception from any other senator's office trying to pressure me about a tax case. I think that the fellows up there make a determination early in the game whether this is a girl who will or a girl who won't, and if it is a girl who won't, they don't like to get their faces slapped. But I think that helped to set a tone that we maintained.

There was a case involving a sheriff down in Louisiana. A great deal of noise, at least, came from the whole Louisiana delegation about it. It wasn't a very good case. I thought that. . . . This was 1962 or 1963, and the case involved the years 1951 and 1952. The prosecuting witnesses were disreputable, bad people and there was no corroborating testimony. I'm sure that if these fellows had left us alone, we would have had a much easier time coming to the conclusion that we finally came to, that the case shouldn't be prosecuted. That was the case of Sheriff Polk. I don't know whether the notes on that went on to the [John F. Kennedy] Library or not, but it is one that ought to be recorded. That's my conversation with Senator Hill.

MORRISSEY: In your efforts to get good people to serve as judges, to what extent did you get inquiries or expressions of interest from people on the Hill?

OBERDORFER: I personally was not at that level of the thing. Really, that came to Byron White and the attorney general. It didn't come to me. My job in judge selecting was that of making appraisals

of the professional quality. I really didn't even get very much in the South into the question of how the fellow would be on civil rights.

MORRISSEY: That was my next question.

OBERDORFER: Burke Marshall did that through the sources he had. People I knew really wouldn't have known very much about what a lawyer--they would know if a man was a segregationist and somebody would defy the Supreme Court, but I would know that generally. But beyond that, I didn't inquire much, for instance, about this Judge Gewin [Walter P. Gewin] down in the fifth circuit. I inquired about him and I got no indication at all that he might be difficult on the race question. He was just a good, solid, country, litigating lawyer. I had nothing against him. He certainly wasn't brilliant or anything like that. I think that you can approach these court appointments in several different levels. The great presumption is that if a senator wants a man and there is nothing wrong with him, he will be appointed, sometimes getting the senator to substitute a better candidate if he is also beholden to the senator. I had a lot of conversations with Louis Hector [Louis J. Hector] of Miami about the judges down there and conversations with Harry Kelleher [Harry B. Kelleher] in New Orleans about the judges in Louisiana. I remember particularly discussing with Kelleher the appointment of Judge West [Elmer G. West] in the eastern district of Louisiana, who turned out to be not the best appointment, but Kelleher gave me no indication of the difficulty we have had and I relied and I think the department relied on Kelleher more than we should have, more than I should have, although Kelleher is a fine man and has been a good citizen in this race fight down there.

MORRISSEY: In making assessments on candidates for court appointments, would you make a deliberate effort to get several people to assess the certain candidate?

OBERDORFER: Oh, yes. And it wasn't just that I would do that, but that my part in it was just one line of inquiry. There were many.

MORRISSEY: Who actually made the final decision on a lot of these appointments?

OBERDORFER: It wasn't I. I think that generally it was the attorney general or the president. I think Byron White had a very large responsibility and influence.

MORRISSEY: I think it is of interest to me and will be of interest to people in the future to hear you talk about the fact that you are a native of Birmingham, Alabama, who worked in an administration that was very strong on the civil rights front. Could you comment on this?

OBERDORFER: Well, I was born in Birmingham and grew up there. During this period my father lived there, but I haven't lived in Birmingham since I was in college. I think I understood the South and have had a lot of sympathy with their problems, and I was consulted quite a bit by Burke Marshall and Byron about these things. I think you will find if you will look at the record of what I did in Montgomery, Birmingham, and Oxford in respect to the legislation and voluntary desegregation, that I tried to look at the reality of the thing and tried to suggest and carry out solutions that would achieve what I considered to be the constitutional and moral necessities in the most painless way.

MORRISSEY: In regard to civil rights matters in Alabama, do you think that the fact that you had grown up in that state was a strong reason why your superiors here decided to send you there and to work with the people there?

OBERDORFER: Oh, I suppose so.

MORRISSEY: Was this fact emphasized in Alabama when you were there?

OBERDORFER: I was very obscure there. They never knew. Nobody ever made any mention of the fact. I was very much in the background all the time. I never made public appearances, I never spoke, never identified myself to the press. I tried to be self-effacing about it. I think I succeeded in avoiding publicity about my part in the thing.

MORRISSEY: Let me spin off a similar question in a different direction. How did you become involved in the civil rights matters?

OBERDORFER: Actually, when Byron was staying at my house during that period before he was appointed and before his family came here, we began discussing and anticipating the problems. I don't think that Byron, and I--I don't know about the attorney general--appreciated the extent to which elements of the South would resist law enforcement by force. In these discussions at my house, we talked about that. I remember telling him about the violent element, about the Ku Klux Klan, about the use of business sanctions, police brutality, extra-legal activities of police in the Ku Klux Klan, which I knew about from hearing about it. I grew up in Alabama, a little kid in the twenties. But I remember the Ku Klux Klan. I remember reading about them. I remember when a friend of my family's by the name of Joe Gelders was beaten and left for dead by a bunch of thugs. He was sort of an agitator. He was a professor at the University of Alabama, but he was rebelling against the situation. He was taken out and beaten by a man who was, when we came in office, a commanding general of the Alabama National Guard,

a fellow by the name of Hanna. Fortunately he was relieved shortly after we came, but Hanna, according to my mythology at least, was the man who beat Joe Gelders [Joseph Gelders] with tire chains or something.

I think I communicated in a way that maybe he hadn't thought about, that maybe we were going to get to the point where some kind of force was going to be called for and hopefully not military force. We talked about using marshals. My earliest involvement in the civil rights problem was in counseling him on the organization of that ragtag force of marshals that went into Montgomery and actually helping to raise that force and then going down with them to run it, and never caught by the patriots, stayed on the Maxwell Air Force Base, and nobody knew I was there. My wife's own family didn't know I was there until I left. I was there a week.

MORRISSEY: Why don't we stop there and hold the rest of the civil rights until the next time?