

And C.R. Smith was?

The head of American Airlines. So AOA was sold to Pan Am and there was one hell of a battle about the sale as to whether it would be okayed because it had to be okayed by the government and there were a lot of arguments against that.

Was American the principal shareholder in AOA?

Yeah, yeah it was 50/50. Well, the net of it was that we were, we had to go to court, the president, Truman was then president, the sale of AOA to Pan American was approved. There was litigation; we had to go to court; we won the litigation and so on. It was a big, a tremendous case; it attracted a lot of attention and was quite a famous case. And I won it. After that, I decided I'd had a belly full of aviation and from there on, most of the aviation work was done not by me but by others in the firm. You'd just gotten tired of dealing with the issues or the people or the . . .?

Yeah. I continued, obviously, I had to continue to be involved to an extent but I mainly got off on other things.

This is January 31, 1992, and I'm meeting again with Mr. Westwood. We left off when we last met, Mr. Westwood, with your having, as you put it, more or less having had a belly full of aviation and moving on to other matters in your law

practice at Covington & Burling. I know that there were three cases of particular significance that you were involved in, the Steel Seizure case, the Texas City disaster case and the Perez Jimenez case involving the extradition of the then-dictator of Venezuela and I thought that perhaps we could talk about those three cases this morning. Why don't we start with the Steel Seizure case? When did that arise, if you recall?

Well that, that arose in the spring of 1952. Truman, Truman's administration you see would come to an end in the next year. There would be, as a matter of fact, Eisenhower was elected in, you know in the fall of 1952. So this was right toward the end of the Truman administration. What had happened was that there had been a great dispute going on between the management of steel companies and the labor unions over wages. It finally became evident that there was not going to be an agreement and the labor unions were going to go on strike. What Truman did, feeling that a strike of the steel industry would be a very critical thing, what he did was to prepare to take over the steel companies on the theory that the labor unions would not strike against the United States running the steel plants and, obviously, there had been some overtures with the labor unions and so on on the subject. Well, the likelihood would be that under the, during the time of the federal government having control of the steel

companies, wages would be increased. This was not exactly what management wanted to have happen because there would be no way in the world, as a practical matter, for them to get back to their previous wage levels and continue with collective bargaining with the labor unions. They would be faced with a fait accompli and it was perfectly obvious that the labor unions were sort of playing footsie and playing ball with the federal government in the takeover. The net of it was that the steel companies figured that they were going to have to somehow or other try to resort to litigation to prevent the federal government, the President, from taking over and running the steel industry. U.S. Steel came to us, this was John W. Davis' firm in New York, obviously with the thought that we would be local counsel, but that they would be really handling the matter. And we had quite a meeting with them. Well, Mr. Davis had been an old-time friend of our law firm and we'd, we'd known the Davis firm from way back and our relations always have been very cordial, but we made it fairly clear to them that sure, we would, we would be delighted to jump into the case with them but we were going to be very actively involved, we weren't going to be simply names with their doing all the, all the work and so on.

Was there any resistance to that on their part?

No, no, not really. Now we'd had a very, very happy relationship with that firm over many, many years and we had worked together on a lot of things. Well, the net of it was that as far as our work was concerned, I was pushed in charge of that and working with the Davis firm and ultimately, as I say, with, very closely with Mr. John W. Davis. We began right away, this was on the eve of the seizure, the seizure had not actually occurred yet, but the effort was going to be to forestall it somehow or other. Well, it's a long and very complicated story. The other steel companies all around the country, they too were planning to get into litigation and as matters turned out, although we were working hard on drafting the necessary papers and so on, but as matters turned out, there must have been at least a couple of steel companies that actually filed suit here in the District of Columbia to enjoin, in an effort to enjoin a seizure before we did. Now that wasn't because we were delaying, but we were probably taking somewhat more pains with the drafting of papers than one or two of the other steel companies that got ahead of us on filing the lawsuits. As it turned out, in the end that didn't make any difference. In any case, we soon got our lawsuit filed to enjoin the seizure and a whole flock of other steel companies got their lawsuits filed and the . .

Were they separate lawsuits or did they join in yours?

Oh, no, no. They were separate lawsuits. A whole flock of them. I've forgotten how many, but a whole flock of them. Ours was just for U.S. Steel. But, of course, U.S. Steel was the most prominent and biggest of all the steel companies so their position was very critical. Well, the net of it was that an immediate restraint was sought from the district court and the district judge, well, there was a big argument before the district judge. One of the lawyers, the New York lawyers from the Davis firm participated in that argument. We did not. We were busy, still busy because we knew that whatever happened in that argument, that it would have to go to the Court of Appeals right away and then would get on to the Supreme Court right away because everybody realized that the case was going to be fought to the Supreme Court and that it had to be disposed of almost within a few weeks. Finally disposed of. And it was to be a unique type of litigation. Well, the district judge, in effect, decided in favor of the steel companies. But the whole proceeding before him was a kind of shadowboxing really. It didn't make any difference which way he decided.

Because it was going up anyway?

Oh sure, right. And then it had to get into the Court of Appeals and the government moved very quickly to

get into the Court of Appeals, literally overnight. We, by that time, were taking pretty much of a lead. I had, with me I had two or three of our very best lawyers, Stan Tempko and Paul Warnke, and we were literally spending 24 hours a day and I mean it, moving on this thing. And, as I say, we were really taking the lead by then. All the steel companies, and they were kind of, I don't mean to look down on the others, but we were, it was easy, easiest to sort of coordinate through us and we were, we had been doing rather more fully the research and that sort of thing than had been done by the other local law firms here. You see, with the matter coming on, with everything happening almost overnight, it was next to impossible for law firms out in the country at large, be they Cleveland or New York, or Boston or whatnot. It had to be. Moves immediately had to be taken by the law firms that were right here in Washington and that inevitably put us sort of in the lead. Well, in any event, the matter got into the court of appeals and although, although the steel companies had been successful in the lower court, the court of appeals was not quite of the same sentiment.

Did you handle the argument in the court of appeals?

Well, yeah. You had to because the argument, in effect, was really an argument having to do with a temporary relief. The government was just going to go

right on. See, they could go on to the Supreme Court directly. The question was whether there would be any kind of an outstanding injunction while they went on to the Supreme Court. Well, the net of it was that the court of appeals, we had a big argument one day and then, and the court of appeals, in effect, rejected our position. But, this meant that they would be going right up to the Supreme Court.

Did the government make any effort, immediately upon the dissolution of the district court's restraining order, to take over the steel mills or was there an understanding that it was going to be litigated?

Well, this was the big issue. On the day that the matter was argued, this, I've forgotten how long after the matter had been disposed of in the district court, it could have been the next day, it was all very fast. The first appearance in the court of appeals, when, at the end of which the court decided against us, apparently it had not been really focused on that if the seizure were not held up, the case kind of became a moot, moot in a sense. And what we did, at the end of the first day when the court immediately announced that, deciding against us, what we did then was to, the lawyers were all lined up before the bench when the court called us back to announce their decision . . .

That same day, the day that it was argued?

Yeah, oh yeah. It was argued in the morning and the court had us back there about, oh I don't know, about 3:00 in the afternoon.

Do you remember who was on that panel, which judges? It's obviously a matter of record, but I'm just curious.

Yeah. Well, Lord, I can't remember names but they were very important judges. No, this was a time when the court of appeals had some real top flight judges, I'll tell you. Well, anyway, when the decision was announced, it was, it seemed obvious that the court had not focused on the fact that if the, that the case might actually get mooted if the government went on with a seizure while the matter was still pending before the Supreme Court. So here were the lawyers lined up in front of the judges as the, right after the announcement of the decision and I, in effect, took the lead in saying well now, wait a minute your honors, we gotta hold this darn thing lest it become moot. Because it's going to go to the Supreme Court right away. I didn't say it in so many words, but it was perfectly obvious that I was getting across the idea that this was just a waste of time. Well, the net of this was that the, in very dramatic circumstances and I can't give you all the detail of it, but it was really like a movie. The net of it was that the judges decided that they would

have a further proceeding the next day, not to review their decision, but to see what, if anything, should be done in the way of holding things up until the matter got to the Supreme Court. Well, the next day I was the guy who really did the argument for all the steel companies because everything was, it was a great emergency and I and my brethren worked, literally we worked right straight through the night getting ready for the appeal because that was what was going to be critical. The net of it was that at the end of this argument the next day, what the court decided to do was not to give us an injunction pending appeal, which we were seeking, but to give us what would amount to a temporary injunction. That is, they would frame an order on the appeal from the district court, they would so frame an order that the government would not become free of restraint until, oh, I think it was the following, about three or four days in the future, I've forgotten just what the time element was.

So they were not going to permanently hold this . . . ?

Obviously they were giving us, intending to give us an opportunity to get to the Supreme Court and let the Supreme Court really decide what the hell was going to be done. OK. So then it became perfectly clear that the real big burden was going to be on us and our law firm here . . .

And on you?

Yeah, and on me. And Paul Warnke and Stan Tempko. And it was one other guy, gosh, I can't remember his name now, who was working with us, the four of us were working on this thing and I'll tell you, we got very, very little sleep. But what we had to do, first of all, we had to get a petition to the Supreme Court to review the case and even though, even though we had been successful down in the district court, there was nothing to prevent us, the successful ones, from petitioning for direct review by the Supreme Court instead, and skipping the court of appeals.

And why again would that have been the case?

Oh yeah, the Supreme Court would have an opportunity as soon as an appeal was filed in the court of appeals, the Supreme Court could grant direct review by it instead of waiting for the court of appeals to review the matter. And that's what we were all, that's what the government wanted to do, you see, after losing the case in the district court. And the, all this argument in the court of appeals about injunction, that all would be only temporary while the matter was getting on to the Supreme Court. Well it was perfectly obvious that the government assumed that they could get their papers, oh, maybe by the end of the week, for Supreme Court review and they were absolutely dumbfounded when, before they filed anything in

the Supreme Court, we had, on behalf of U.S. Steel, we had papers filed in the Supreme Court seeking review, even though we had been the successful ones in the district court. But the point was, we also were seeking injunctive relief pending appeal so that the matter wouldn't be mooted.

Right.

This caught the government completely by surprise. They were amazed. And we had been able to do this because literally we worked all night and we had damn good papers. The reason we were doing it was tactical. We figured that the most likely way of getting protection by a temporary injunction pending appeal issued, or a restraining order pending appeal, issued by the Supreme Court itself would be by gearing up and getting things filed and making it clear that there really was a great emergency, etc. The net of it all was that we were ultimately successful in that tactic and the net of it was that the Supreme Court actually did, immediately, issue a restraint on taking over the, against any seizure pending the determination of the matter on the merits by the Supreme Court. And they also set the case for virtually immediate argument. I think the argument on the merits was, oh, I've forgotten the exact timing, but maybe a couple of weeks. So we had to brief the case and then get

to the argument, all, you know, in overnight periods. Well now, what we did, I, with Stan Tempko and the other guy, we actually went to New York City and worked directly with Mr. Davis, at Davis, Polk there in New York City, on the papers, the brief and so on to be filed in the Supreme Court.

Was he going to do the oral argument in the Supreme Court?

Oh yeah, oh sure.

And that was understood?

Oh yeah, what the hell, John W. Davis. And they, ultimately what happened was that all the steel companies, in effect, bowed to him to have him do the argument except for, there was one company that insisted that their lawyer, Charles Tuttle, be, or participate in the argument. Charles Tuttle, incidentally, had been my first father-in-law. [Laughter] But he was no longer my father-in-law by that time. But, in any event, it was John W. Davis and the brief filed by U.S. Steel would be the brief that would be the leading brief and that's what we were working on in New York. And we played, we played a principal part in the writing of the brief, working directly with Mr. Davis. There was one of the partners in Davis, Polk also was involved, but nowhere near as much as we were. And I found it extremely interesting because I'd always been a Socialist and John W. Davis, of course, had

been the Democratic candidate for president in 1924, which, that whole campaign year was, to me, sort of a joke. That was the year of the third party, when Wheeler and LaFouette. And I'd always tended to think of Mr. Davis as kind of an instrument of the capitalist system. [Laughter] But here I became really very well acquainted with the guy and the guy was wonderful toward me. Here I was very, very young compared to him. By that time he was an old man and world famous but he treated me as an equal and we had a great time there in New York working together on this brief. And I, I may say that for me, not only did my esteem for Mr. Davis go high, higher than a kite, but it was a tremendously exciting experience. Well then, ultimately, there was, of course, the argument before the Supreme Court and the brief that we had done on behalf of U.S. Steel was obviously the lead brief and the case was won to the amazement of everybody.

Was it really to your amazement?

Well, we, by that time I suppose we had convinced ourselves that we were going . . .

It is always the risk that any litigator has.

Oh sure.

But, when you started off, did you think that it was really

...

When we started off, we figured it was going to be one hell of a fight and the chances much against us. After all, here was the President of the United States and how in the hell could a bunch of steel companies enjoin the President of the United States from doing something that he figured ought to be done.

But the constitutional questions were certainly very serious. I haven't read that case in many, many years, but thinking back on it, it doesn't strike one when you read the case as it having been, constitutionally, an uphill battle.

No. No. That's true and you know, you look at it as surely, purely as an academic matter. But practically speaking, politically speaking, the idea of in a great economic emergency, which there was, . . .

And the sole emergency being that if the steel companies went on strike, everything would stop all, or a lot of manufacturing and so on.

Oh sure.

Do you recall whether the steel workers, the Union, actually participated. I don't recall, were they in the litigation?

Well, I, for the life of me, I don't remember whether they were a party to the, a party, yeah, they must have been a party to the litigation. In any event, they certainly were very much involved in the whole . . .

And that would have been, would that have been when Arthur Goldberg was General Counsel to the Steelworkers?

Ah, yeah. I think, isn't this ridiculous? I think Goldberg was involved.

That would have been about his time there. I'm not really certain, but that was quite an array of legal talent that was brought to the matter.

Oh, this was, this was blue ribbon stuff, there's no doubt of that. But for me personally, the exciting thing was to become so well acquainted with, and work so intimately with John W. Davis and it, I was absolutely amazed that one who had been in favor of maintaining the exploitation of the masses by the capitalists' society should be such a nice guy. [Laughter] He was absolutely wonderful toward me and he treated me, in every sense, this wasn't just a pose, as an equal and we, there in his offices, we were preparing the brief, we would have regular sessions, the two of us, there in his office with two or three others sort of sitting around as though they were audience, arguing back and forth exactly how the argument should be developed and so on. And the guy was marvelous. Well, that was a big case and that was won. Did you continue to represent U.S. Steel after that on Washington matters?

Well, oh yeah. We had done, I can't remember whether there were other U.S. Steel matters that came up after that. U.S. Steel, their regular counsel, of course, was

Davis in New York and it's very likely, because we had done, over the years we had done a lot of work with Davis, Polk. For them here in Washington and they for us in New York.

I see.

See, in those days you didn't yet have a lot of Washington offices of law firms outside. Law firms hadn't, nothing like what has happened since where law firms are spread around.

Right. You also were involved in the Texas City disaster case?

Yeah. Well that . . .

The disaster, as I recall, it was refinery explosion. Is that right?

Well, it was, a tremendous amount of material was being loaded on to a vessel in, this was explosive material, down at the wharf in Galveston. Or in Texas. Down in Texas City, down there at this wharf. And it exploded and it, of course, was a tremendous, tremendously damaging thing. Not only property but otherwise. It was a huge, huge explosion. Almost incredible. Litigation was begun. Practically every lawyer in Texas was involved in it. We were not involved. Practically every lawyer in Texas was involved.

This would have been personal injury litigation and the like?

Oh, a whole flock of things. And the matter went up to the Fifth Circuit Court of Appeals.

Which matter would that have been, Mr. Westwood?

Well it was . . .

What were the federal questions or . . .

Yeah, it, I'm trying to, this is ridiculous. I'm trying to think now. I'm trying to think what the basis for the federal jurisdiction was, whether it was, it could have been diversity.

Were you involved at the Fifth Circuit?

Oh no. No. We weren't involved at all. But in any event, the Texas lawyers, the plaintiffs' lawyers had been successful in the, in the district court level. They got up to the Fifth Circuit and they lost. And that's when they came to us. And the matter was brought, as a matter of fact, to Mr. O'Brian. Now Mr. O'Brian, you see, was getting to be a pretty old man. He was 70 years old when he came to our firm.

Really?

Yeah. He came in 1945 and he was, he was 70 years old. But he was still very, very vigorous at that time. Of course, this was, this Texas disaster case was in 1950, I guess it was the fall of '52 that, or late summer or fall of '52 that it came up. So Mr. O'Brian was, he was still vigorous, but he was getting pretty old. I was the

guy who was assigned to work with him and work on the briefing of the case and so on and help him get prepared for argument.

Before the Supreme Court?

Yeah.

Who was the defendant in that . . . was it . . . I want to say Mobil or one of the, one of the major oil companies, but I can't remember.

Hmm.

Well, in any case, that side of it we can easily fill in the blanks on.

It's perfectly silly the way I'm running into blanks. I'm just getting too damn old to remember these things. Well, in any event, we had to prepare a petition for cert and that got dumped in my lap, which we did, and cert was granted. Then there was the matter of briefing and ultimately the argument. The Texas lawyers had, as I say, nearly every lawyer of any consequence in the whole state of Texas was involved in this case; but what the Texas lawyers did was very sensible. They had wanted Mr. O'Brian, they had very deliberately decided that they wanted him to be handling the case in the Supreme Court and what they had done was to, was to agree that a particular lawyer would work with us and with Mr. O'Brian instead of having a whole flock of lawyers trying to

work. And one of the leading partners in a leading firm in Houston was picked for that. But there were also involved in this case some admiralty issues, or at least potentially involved and there had to be an admiralty expert who would be with, helping with and available to Mr. O'Brian in, and us, in working up the brief and potentially in the argument. So, in addition to this leading lawyer in Houston working with us, there was also another lawyer in Houston who was one of the leading admiralty lawyers in the country as a matter of fact but certainly down in that part of the country, who was likewise designated to work with us, or at least be available on call in connection with any admiralty issues. That lawyer was a guy named Brown, first name John. He had grown up in the state of Nebraska. He'd somehow or other gotten to Texas and had developed quite a practice there. Ultimately, of course, he got to be on the court of appeals for the Fifth Circuit. Ultimately he became Chief Judge of the Fifth Circuit. Ultimately the son-of-a-bitch was coming to visit me about every, every few months and ultimately the son-of-a-bitch was here only about two weeks ago.

Is that right?

We became very, very close friends.

As a result of that litigation?

Sure. That's where it . . .

That's where it began . . .

Oh yeah. We got very closely involved because they, these two lawyers from Texas, including that guy, practically had to live with us doing the brief because there was a tremendous record; it was terribly important to get the brief done in a way that would meet all of the needs and the views and so on of all of these lawyers in Texas. And, at the same time, would be a damn effective brief.

And writing briefs by committee, the most difficult thing of all to do?

And we were extremely successful and I may say the Texas lawyers were very smart not to try to intrude but to leave everything to these two guys they had picked to work with us so that it turned out to be a very, very smooth operation. And then the matter ultimately was argued.

Did Mr. O'Brian do the argument?

He did but I had to get into it.

In the argument?

Oh yeah.

How did that come about?

Well, he, Mr. O'Brian was getting very old and there were parts, he and I had divided the argument. He was going to deal with certain aspects and then I was to come along and deal with the other aspects. As it turned out,

I had to, almost to take up my part of the time, I've forgotten whether we each had a half-hour or each of us 15 minutes, whatever the, I don't remember now. But, in any event, it was darn near necessary for me to cover the whole, the whole matter.

In your time?

In my time, yeah. But, in any case, the case was ultimately decided. Every one of the good judges, justices on the Supreme Court voted our way. The trouble is,...

There weren't enough of them?

[Laughter] There weren't enough of them. Right. I've forgotten now what the vote was. I think it was 4-3; it seems to me there were two who did not participate. I'd have to double check. I think that's right. And we got, we got the three best.

Well, there's some solace in that isn't there?

Oh yeah. But it really was very funny. Frankfurter, let's see, Black, Frankfurter, I think it was Black, Frankfurter, I don't know, I'd have to check it, but, and Roberts I guess, maybe voted with us and then, and these other idiots voted against us. It was, and, of course, the opinion that the Court wrote was absolutely impossible and . . .

Impossible to understand?

Oh yeah. Sure. And they haven't adhered to it in future years.

Do you recall what the major issue was in that case?

Well, the, what the hell were we arguing about mostly? I guess the real basic issue was whether there had been negligence of some kind. In other words, any kind of culpable conduct in the loading of this stuff. And, the opinion that was written in effect held that there was not and in, and I'm about 99% sure that not once, but several times since, there have been decisions and opinions by, even by the Supreme Court itself, that are just plainly inconsistent with what was dished out. And it was perfectly obvious that the, the thing that was wrong, the weakness in the plaintiffs' case was that they asked for too much money. And we told them that. When the matter first came that the complaints and so on that had been filed simply, for that day and age, asked for too much money. And there is very little question but that the Supreme Court was, the majority of the Supreme Court was moved to decide the case as they did because there would have been involved entirely too damn much payout.

A practical reason.

I don't think there's much question about that. And I think lawyers at the time pretty much agreed that the tactical mistake made by the Texas Bar was very serious

when they, when all the litigation was first being evolved. They just were reaching for the moon. That's been a practice in Texas that's continued unabated. Why don't we talk about the Venezuelan extradition. The extradition of Perez Jimenez who was, as I understand it, the then-dictator of Venezuela, is that right?

Well, he was not at that time. He had been.  
I see.

Yeah. In the summer, in August of the year whatever it was, I'll have to doublecheck the year. On a Saturday, I was working in the, in my office at the firm. Saturday mornings in those days I found very important because they, you could really get some work done at that time. And there looked in on me Dean Acheson, he was working also on that day and he told me that there was an extradition case that was going to be coming from Venezuela and he wanted to know whether I would handle it. Well, I never heard of an extradition. I guess maybe Dean Acheson had heard of extradition, but he didn't know anything about it. But I always figured that I could do anything. I was not an aviation lawyer or any other kind of specialist. I was a lawyer and lawyers are supposed to be able to do anything that a client needs. So I said sure, I'll handle it.

The net of it was that the, I was soon meeting with the Ambassador of Venezuela, the Venezuelan Ambassador. The Embassy, incidentally, was just around the corner from my home which . . .

Made it very convenient.

In the end that made it really very convenient indeed. This was, yeah, this was in 1959. That's right. In August of 1959, yep. Well, to make a very involved story somewhat simpler, it, I was advised by the Venezuelan Ambassador that Perez Jimenez, who had been the dictator of Venezuela, was living in Miami. That the Venezuelan democratic government had, in effect, overthrown Perez Jimenez and had installed what was a genuine democracy down there and that proved to be quite genuine. It was extraordinary. That they had found that Perez Jimenez had committed various crimes. He had, in effect, misappropriated money and stuck it in his own pocket. He was also accused of causing the murder of certain people and they, the democratic government of Venezuela wanted to extradite him and get him down there and try him on both the murder charges and also the mal..., what they call malfeasance, misappropriation of funds. Stealing.

Not to put too fine a point on it, but stealing.

So the Ambassador told me that the papers were coming right away and all that, apparently all that was necessary was that I just get them filed and, well, I didn't know anything about extradition and the firm didn't know anything about extradition.

Nor do I, yet. So you're going to have to educate me a little bit.

And Dean Acheson wasn't involved. He was, he was spending his time mostly working at his farm and otherwise enjoying his post-active life. Which incidentally, after the Truman administration, after his time as Secretary of State, he came back to the firm and he was wonderful. He was very helpful to us and he did a certain amount of work. But, obviously, he attracted things and obviously the extradition had come because of him. But it was all, as it turned out, it was all turned over to me and Dean had nothing to do with it from there on and I was completely, utterly accepted by the Venezuelan Ambassador and ultimately the Venezuelan Government.

Well, we, the papers got here. There was nervousness about it and great secrecy because it was feared that if word leaked out and Perez Jimenez heard that there was going to be an effort to extradite him, he would flee. As it was, he was installed in a residence down in Miami and living a perfectly comfortable life and the Venezuelans

were very nervous; they wanted to be sure to get him before he had an opportunity to get away. Well, the papers got here. They were in Spanish. We had a hell of a time. There was some English, but the English wasn't much. The net of it was, what I had to do was to put together a team in a great hurry. We had to deal with the Venezuelans, we had to explain to them how things were done here, we had to get papers translated and everything done in, under great pressure and in a great hurry. Well, it's a long, long story. On the face of it, I found I had to do some looking into what extradition was and you read the pertinent statutes and so on and it looks like, and also even the, a certain amount of textual material and even a certain amount of judicial decisions and on the face of it, it's like a preliminary hearing in a criminal case. You don't have to prove anything really. All you have to do is just show that there's reasonable, reasonable cause to detain the alleged criminal for later trial. And the, on the face of things, apparently, the analogy to a preliminary hearing in a criminal case was an exact analogy and that's what I thought we were getting into after I'd looked around a little bit over this first weekend. So that didn't look like anything terribly complicated and the only problem was to get papers filed in a great hurry before Perez Jimenez got wind of it and

decided to flee. Well, fortunately, it turned out that despite the fact that the papers that came were, many of them in Spanish, and that we had to fiddle around and get something that would, that could be read. I did get down to Miami in a hurry and we did, fortunately, we got a lawyer there, a local lawyer who was really very, very good and very helpful. I can't now remember his name but he was one of the leading lawyers in Miami and he worked with me in great style, made things very easy for me and didn't try to take over in any way, just tried to ease my way and help me in various ways.

The net of it was that we were able to get papers filed.

They were filed in the U.S. District Court in Miami?

Yeah. Yeah. And we were able to get papers filed and served very quickly. And were able also to have the matter set for immediate hearing and what we wanted to do was to get the district judge to, in effect, to put the guy under restraint and then have an immediate hearing. Which is the way extradition was handled apparently on the basis of all the, all the statutes and treaties and other things I had read, the whole darn thing would be disposed of in a matter of maybe two or three days. The guy would, if reasonable cause had been found, and we had a lot that we figured showed reasonable cause . . .

Then off you would go?

I would be shipped off. So this would end my interruption of my summer vacation. Well, of course, it quickly developed and wasn't going to be like that.

Who represented Perez Jimenez?

He, right away, immediately got a lawyer in Miami who was a leading criminal [lawyer] there and a very able guy and who . . .

Do you remember his name?

I can't remember his name. I, no, I don't remember. In the report of the case, obviously, is his name. Well, it's silly. I just can't remember him.

I think we're going to run out of time on this tape so let me just change tapes. There, I think we're back on tape. When we left the other tape, I'd asked you if you had recalled the lawyer representing Perez Jimenez and you didn't and we agreed that we'd come up with his name perhaps when we saw the reported decision. But, in any case, it did not, I gather, turn out to be the three-day sojourn in Miami and then back to summer vacation. It turned out to be something far more complex than that?

Yes indeed, it did. Matter of fact, it was not, it was, I think about a week longer than three years.

[Laughter] Well, I guess the fellow in Miami was pretty good then.

Oh, he was. He was good. That was an extraordinary experience.

How did that turn into three years and a week?

Well, in the first place, he immediately indicated that, well, he got free on bond right away and, of course, that made us very nervous because we figured what the hell, he would skip out and run away and the Venezuelan Government was extremely nervous about it. But I think he, I think he was somewhat over-confident. I think he figured that with this lawyer that he had there in Miami, who was a very, very top flight lawyer, and probably with his own background of experience that all you had to do was, was slip money to people and everything would be done the way you wanted it, I think he really did not think that there was a very serious threat. I may be wrong in my judgment.

It sounds plausible, for sure.

But, in any case, he didn't flee and he did post a bond and it was a substantial bond. But then, instead of having an immediate hearing, it was indicated to, by his counsel to the judge that some time would be necessary. As soon as I realized that this was going to be a serious proceeding, I had to focus on the fact that I couldn't read Spanish and that it was going to be necessary to have witnesses, it was gonna be a real hearing, it was not  
. . . .

Not what you thought you were getting into.

I was amazed. Well, the net of it was that we got ready to do a big job. One of the first things that was necessary for me to focus on was that it would be like a criminal proceeding.

Had you had any experience at all in criminal cases?

No. I had had some, but oh, I'd gotten assigned to some criminal cases, but that hadn't amounted to anything. This was something for the American Civil Liberties Union and some other things in my early, early career. I suppose I ought to tell you something about those. Some of those were, well the newspapers, newspapers carry great pictures of me with my clients.

[Laughter] We'll have to come back to that.

But, in any event, this thing was, I really had to get ready for something that was going to be more than just what I had assumed to be a normal criminal preliminary hearing and right off the bat, there was the problem of translation. I couldn't rely on the translations that would come from the Venezuelans themselves because they were not expert in writing English the way, in a way that was suitable for the reading of our courts and so on here. Fortunately, I stumbled on to a guy who was not many, not long out of law school who was, had been an expert in, had concentrated, majored on

Spanish matters, had actually done some work in South America and who was floating around the city of Washington. He was a young man apparently not having a regular job, but he was a lawyer, not having a regular job and trying to make ends meet by translation. And I grabbed him to do some translating. I saw immediately, almost immediately, that this guy was a pretty smart fellow. The net of it was that ultimately we hired him. And he became very much involved in the Perez Jimenez case and was enormously helpful.

Did he stay on with the firm after that case?

And he stayed on after that for quite some time. But he ultimately decided that he wanted to move out on his own and he did. And became, and he still is, a rather prominent lawyer who, here in Washington.

Who is that?

Oh my God. He's a good friend of mine.

Well, it's just another blank we can fill in.

Isn't that ridiculous?

Well, you got him to do the translating?

Yeah, and when I realized that he was also a good lawyer, as I say, the thing to do was to hire the guy because this was then a quick way for me to find out just what an awful lot of the materials meant. It also turned out that there was another young lawyer in the firm who had just

come with us and who had been Editor in Chief of a law journal out at Stanford and had been a law clerk to one of the justices of the Supreme Court, I've forgotten now which one, and he had just come with us shortly before -- Bill Allen, who was absolutely tops, and I grabbed him. And we really began to move on this thing. When we finally, when we focused on the fact that we had hold of something that was going to be a huge case of international import, well, ultimately there were proceedings in the, in the court, not only before the district court but before the court of appeals for the Fifth Circuit. We had hearings in Petersburg.

Petersburg, Virginia?

In, not Petersburg . . .

St. Petersburg?

St. Petersburg in Florida, hearings in New Orleans, hearings in Miami. There was actually some incidental litigation that came up in New York. This had to do with efforts of some people to get his property, or get at his property. I had, as a matter of fact, I had David Acheson working on that. Because I was having to be in about six places all at once and it, it evolved very quickly into what turned out to be probably the biggest extradition case that had ever, ever occurred.

Wouldn't the, again, forgive me, I don't know a thing about extradition, but I would guess that most of the issues were constitutional issues. Whether or not he was being given due process before being shipped out of the country, or were there factual questions?

Well, to a degree there were some factual questions. His lawyers were awfully clever, they could make a great big show out of nothing. And we had, we had to show that there was some reason to accept the allegation of corruption and the allegation of murder because you don't extradite just because you say there was.

Right. But did you have to bring people from Venezuela?

Yeah. We ultimately had to, had to put together an evidentiary proceeding . . .

Almost like trying the murder or stealing cases?

Of course, it didn't have to be as thorough as a trial, but inevitably, it was a lot more thorough than most criminal preliminary proceedings. And, ultimately, in the long run, the judge did find that we had not proved the likelihood sufficiently of murder. But he did hold the guy was extraditable on the financial corruption charges.

I wonder if that would mean that, after he was extradited, the Venezuelan authorities were somehow precluded from trying him for murder.

Oh yes. It meant . . .

How would U.S. courts monitor that?

Well, there's no way, there's no way they could monitor that. The United States Government would have to monitor that. But it, part of the treaty of, extradition treaties provide that when a man is extradited, he can be tried only on the charge for which he is extradited. He can't be, you can't pull something else on him.

Right.

But this matter, of course, became internationally famous and it led to all kinds of complications and international notice and just endless proceedings. It went on and on and on.

Did it become famous because of who was involved?

Yeah. Sure.

Were the legal issues also of great note?

Well, the legal issues . . .

This seems like an extraordinarily drawn-out . . .

Well, the legal issues were of great note in the sense that the, what had happened in Venezuela in the way of a revolution against Perez Jimenez and the overthrow of a dictatorship and the ascendance into power of a true democracy and then all that had happened since and it goes on and on and on. This was headline stuff all over the world and it, every time, every time anything in

connection with the case was even mentioned, there was immediate interest and excitement and concentration. We ultimately, well, ultimately, it, we got a favorable decision at the district court level. Went to the court of appeals and there was a big argument there. Ultimately, we got a favorable decision there. Then he went and sought certiorari of the Supreme Court and in, there was a, this was, I can't quite remember what time of the year it was. In any event, there was a special, if he were going to get in the Supreme Court, he had to get some kind of injunctive order from the Court pending appeal or pending action on his petition for certiorari.

Otherwise, as a result of the Fifth Circuit decision, he would be off to Venezuela?

Yeah. Sure. The matter of some kind of restraining order or injunction pending came up before Justice, the labor . . .

Goldberg?

Goldberg. On a Saturday. I had been, Bill Allen and I and, we'd been down in Miami, I had to fly up here on Friday night and appear before Goldberg on a Saturday down in chambers. Down at the Supreme Court building and his lawyer was there. What Goldberg was doing was deciding whether some kind of a restraint should be issued. And we had quite a, quite a session with him and my argument was

against restraint and his lawyers, of course, were arguing for a restraint.

What was your argument against restraint? I mean, you knew that they were going to be appealing, that cert would be granted or not and if it wasn't that would be the end of it.

Well, my argument was that there was really no basis for cert, that there wasn't sufficient merit in his case to, for the Supreme Court to bother with it.

So it was a likelihood of success on the merits argument and that allowing him to stay in this country pending that was just dragging out his time here and delaying the inevitable?

That's right. Well, in the end, Goldberg agreed with me and . . .

Did he write an opinion?

I don't think he wrote, I, well . . .

Or would you just get an order?

I'm pretty sure it was just simply an order. And I think, we spent the morning down there and I think he issued the order along about the latter part of the afternoon and then I had to fly back. God, I hadn't had any sleep. I had to fly back to Miami and well, we figured that we were going to get the guy. We were wrong. The State Department then got into the act. All this had begun you see under Eisenhower.

And now you're under Kennedy?

And now we're under Kennedy. And for some crazy reason, the Kennedy regime, the State Department regime under Kennedy, got the idea that there just might not be a fair trial in Venezuela. That there would be prejudice against this poor devil. Well, I nearly died. The very idea of the administration of John F. Kennedy, this great left-wing liberal, suggesting [laughter] that this right-wing criminal who had been dictator of Venezuela should not be sent back to face justice. I couldn't believe it.

A little too much for you to take.

It was incredible.

And how did the State Department get involved? You'd already had an order from the Supreme Court, you go back to Miami . . .

No. But you see, you see, extradition is not a court order.

Oh, I see.

Extradition is still a climatic order. The State Department, they don't have to extradite, even if . . . Even if there is a court order?

Oh yeah, sure. They don't have to. And this thing went on for months. In the meantime, the Venezuelan Ambassador had changed and there was a new guy who turned out to be awful good. The original ambassador was very, very good but he was sort of an academic type, the old

school type. The new Ambassador, matter of fact, is presently one of the leading lawyers in Caracas.

Is that right?

Yeah. I can't remember his name but we became very, very chummy and well, he and his wife liked me and they entertained us and we entertained them. But, in any case, we had, I think we got, my vague recollection is that we got the decision, a favorable decision, from Goldberg along about, oh, say January or February of 1962 or '63 and we didn't get the guy actually extradited and put on an airplane to ship back until I can't remember whether it was July or August. But it was exactly, exactly three years from the time it had begun and it must have been, it was, I think it was about six months after all the litigation had been ended.

Before it really happened?

Before it really happened.

What happened to him in Venezuela? Do you know?

Oh, in Venezuela. He was, he was jailed and they made up a special jail cell for him that was like an apartment and he immediately had all kinds of lawyers lined up, leading lawyers in Venezuela and it went on and on and on down there for a long time. He was kept in jail all that time but he had visitors and he ultimately, ultimately there was a trial. Ultimately he was found

guilty and the, I think it was actually tried before the Supreme Court of Venezuela. And he was found guilty and sentenced to imprisonment for a length of time which coincided precisely with the time we had had him in jail here and the time he had been in jail down there.

I neglected to point out when we finally got the extradition proceedings done before all the courts, then we got him in jail and he was, so he was, all this time, between the ending of the litigation in courts and the time we actually got him extradited, while we were fiddling around with the State Department, the guy was in jail down there in Miami. [Laughter] It was incredible. But, in any event, he got, after his trial in Venezuela, he was found guilty and sentenced to a term of imprisonment that coincided exactly. So he was immediately released and immediately took, this had obviously all been arranged, he immediately took off for Spain and I think at one time after that, this was in 1962, '59, '60, yeah, 1962. At some time after that it seems to me there was an attack on Venezuela from Peru and I think, I think PJ, I think he was back there in Peru while that was going on, thinking that it might work.

It might work and he'd be back in office?

I don't know, he may still be alive. I'm not sure. Was that the one and only extradition case you had?

That's the one and only.

Didn't start any extradition practice at Covington & Burling?

No. As a matter of fact, extradition is a rare, a very rare proceeding and 99 percent of extradition is just a routine formality. There, we did, of course, research extensively. There had been a few Supreme Court cases on dealing with extradition in one way or another. An extradition from one state to another is a very different matter. Extradition from one country to another, and it, literally, what we were dealing with was an area that was virtually without significant precedent. Actually, extraditing a head of state, I don't think anything of that sort had ever been done. I don't think it's ever been done to this day.

That's probably so. I certainly don't recall having . . .

Mind you, this was for an alleged crime committed while he was head of state. I don't think it's ever been done, I'm sure it's never been done before and I don't think it's been done up to now.

I think that you're probably right. Mr. Westwood, in reading some of the many articles that you wrote during your career, one of the things that really stands out is your long-standing commitment to legal aid. It seems that that was something that you first became heavily involved in as early as the early 1950s and even before. I'd like to spend a little bit of time

talking about how you first came to have an interest in legal aid and then how you came to be interested in making sure that the concept of legal aid, and legal assistance for the indigent in general, was one that the rest of us became aware of. I know you were active in the ABA in that area, so why don't you start from the beginning. How did you first get involved with legal aid?

Well, from the time I got to the firm initially, I had hoped that I would get some experience actually in trial work and I had obviously thought some about overthrowing the capitalist system and I, not too long after I had started I would go down to the court and put my name in to be assigned to cases. I didn't have to ask anybody here at the firm, I just did. The firm was very, very informal. We had no formality. I did things that I never, never asked anybody about. I just did them. Of course, I soon became very, very busy at the firm. I earlier mentioned the PWA cases that I got involved with. Well, that was a tremendously demanding thing and I got so deeply involved in that and some other matters early on, that I really had very little in the way of opportunity to try to do anything in the way of assigned cases or anything of that nature. But I also found, this was somewhat disillusioning, that although now and then I could get an assigned case, I would find that the guy was

really guilty as could be and it'd be much, I could get a better deal for him by pleading him guilty than by pleading innocent and then . . .

Going to trial?

Going to trial. And the fact of the matter is that I went to some considerable trouble trying to get experience in trying cases on a pro bono, or on an assigned basis with next to no success. And I, I really oh, I had one or two very dramatic episodes which got in the newspapers. Big headline stuff.

Do you recall what those cases involved?

Yeah, well I've got, there's a notable case, this is in 19--, this came along in 1936. Some ladies were picketing the auction of Franco, the brother of the guy, the Franco, the dictator who was starting to overthrow the democratic government in Spain and these ladies picketed the auction.

What type of auction was it?

His household goods. He was getting back to Spain and in order to participate in the Franco army, in the Spanish Civil War, and he'd been assigned to the Spanish Embassy over here. He was leaving here, leaving the United States and he wanted to get rid of his stuff and there was an auction of his household possessions. And there were three ladies who picketed. They, their general

idea was don't patronize this character, he's an evil man. Well, they were arrested for parading without a license in violation of a regulation of the District of Columbia Commissioners that required a license before you could parade. And no one had ever suggested that a mere picketing a place was a parade.

Right.

But it was now suggested and these people were actually arrested and it was going to come up before a police court. This was before there was a United States District Court and a United States Superior, this was, there was still the old Supreme Court of the District of Columbia which was formed during the Civil War and continued right up to recent years. And there was also a police court. A police court was a court in a great big building at the southwest corner of Judiciary Square on 9th Street, a huge building and there was a great big room on the first floor of that building, it was a huge room, that's where the police court sat and there was a bench down on one end of this room and these ladies were to be tried before the police court for violation of a district regulation and it, I can't remember now whether, what was really threatened in the way of punishment, but there was an obvious legal issue as to whether picketing a place was a parade and the American Civil Liberties Union defended

them and they got a hold of me and asked me to handle the case. So I did. And the case was being prosecuted by the Corporation Counsel's office, just one of the lawyers on the staff. I got moving on that case, the police court judge was a very conservative old fellow. To him, I'm sure, every communist was an evil person, but he was a good lawyer and I was not talking communism, I was talking law. And I was, I had a lot of points that I was making and he took me seriously and pretty soon the courtroom became filled and pretty soon the Corporation Counsel's boss came in and took over. [Laughter] It was the funniest thing that ever happened.

I finally got, I give you my word, before noon of that day, that room had become so full of spectators, many of whom were lawyers, you know, who would hang around the court getting, picking up cases. That room was so full that I hardly had room to pace up and down in front of the bench. Barely. And this judge was getting a great kick out of it because all, no one could have been more violently anti-communist than that judge. I've forgotten his name now. He was a damned smart guy and he was taken by the fact that I was not dishing out a lot of junk, but I was making, I was making good, legal arguments and the Corporation Counsel was going crazy. Back and forth we would go. Well, the net of it was, when we got, the

evidentiary part of the proceeding had been nil. I mean that was . . .

You mean it was conceded. Everyone knew what they had done.

Oh sure. But finally I pulled an argument. I had found a decision of our Court of Appeals, it must have been in the early days of our court, it must have been around, I can't remember now, it must have been as early as about 1900. You see we had no court of appeals here until about 1890 and I think this was a decision along about 1900 to the effect that you do not take judicial notice of regulations. The Corporation Counsel never had approved regulations. Hell, they were all in pamphlets and published and so on. And here was a parading ordinance. There was a regulation, you gotta get permission, a permit for a parade and there it was, all printed up. But I was making, among other arguments, I was making, waving this in the air. What is this? The thing that they were charged, that my clients were charged with violating is a piece of paper here. There's no crime, no crime is committed for violating a, viewing something that is inconsistent with a piece of paper that nobody ever heard of, what is it? The net of it was, the judge agreed with me. And the Corporation Counsel damn near died.

Because that presumably called into question the validity of all of their pieces of paper regulations?

Oh sure. I've always meant that, I meant after that to double check to see what the hell they ever did about it, but I, I had it worked out very nicely. And needless to say, there was a lot of stuff in the newspapers about that, including pictures of me with my flying suit on. Well, did that, did that pique or begin your interest in legal aid and doing it?

No. I was, really, see this was in 1936 that this happened and the aviation stuff was just beginning then and I was still doing a lot of the . . .

PWI work?

PWA. That was going on and the aviation stuff was starting and it, in just a few weeks after that, I got literally so busy I couldn't do anything except carry on the work in the firm and it was very frustrating. But I, by the time I got through everything in 1950 and by then I quit full-time on aviation matters and began getting into other things. I was still kept so busy in an effort to get into things in addition, apart from the aviation, you know, you don't do that just between nine and five and, as I said earlier, in those days we worked oftentimes seven days a week and hell, the kind of hours people keep these days, wasn't anything like that in those days. But in 1955, the

spring of 1955, my daughter was in her first year in college up at Skidmore . . .

That was the town that I grew up in.

Did you?

Yeah.

Yeah. She was in college there and they, this was before it became co-ed, just ladies. And they had a father's day in the spring.

Happy Pappy's Day it used to be called.

Yeah. Yeah. And I went up there with a couple of other people who were driving and they offered to take me along and so it was a convenient way. But one of the people who was going was that lawyer, well-known lawyer here in town. He knew me, of course, and he began, somehow or other, telling me about the Legal Aid Society here. Well I knew there was a Legal Aid Society but I'd been too busy, I'd never paid any particular attention to it. But, by the time that weekend was over, I had talked to this fellow enough about the Legal Aid Society to get real curious about it. The net of it all was that I got myself involved in the Legal Aid Society and I was soon on the Board, well, matter of fact, a lawyer of some prominence from Covington & Burling, hell he got on the Board at Legal Aid Society just by looking at 'em. And the Legal Aid Society in those days had no money to speak of.

What was it about what he had discussed with you that caused you to become interested?

Well, he was telling me about the Legal Aid Society and the kind of work they did and the need for more support than they had, the way that it was, had to be very conventionally operated, there was a full-time guy who was the Director of the Legal Aid Society staff, such as it was, who did it at a salary that was practically nil and they just didn't, had never had the support and attention in the community that they merited. And that just stirred my interest.

I see.

And it touched on the sort of thing that I'd always kind of intended to get involved in, but had been, just been too damn busy to do it and it made me feel guilty. So when I, I began right away to look into it. And one thing quickly led to another as soon, I mean, a partner of some prominence by that time, I was of some prominence locally, and a partner in any event of Covington & Burling, my God, if, indicates some interest in the Legal Aid Society, boy they, they really grabbed you. And, literally, at that time, I've forgotten now, it's, God, I don't know, there's a story about it all somewhere or other that I wrote up, I think the Legal Aid Society's total income at that time was something like, oh maybe \$10,000 a year or something of that sort.

I think that's right.

Yeah. It was ridiculous. And so I, I got, got moving on that and . . .

Actually, you had written an article for the ABA Journal in April of 1965 and you noted that, by 1954 the Legal Aid Society had an income of \$14,000 annually.

Yeah. It was ridiculous. Really, it was ridiculous. I was horrified. So, I then began the screaming and yelling at Legal Aid. And we soon were able to stir up interest on the part of the Bar Association. The Bar Association theoretically had always supported the Legal Aid Society, but they, hell they hadn't done anything to speak of and, fortunately, in the year 19\_\_, I guess it was 1955, yeah, yeah, I wrote him a letter yesterday, Charlie Rhyne, was president of the Bar Association and there was a vacancy on the Board of the Bar Association, some guy had been elected and died or something. Well, I never could have been elected to anything, but Charlie Rhyne and I had, knew each other well and had exchanged ideas on lots of things and Charlie got a hold of me and appointed me to fill this vacancy. So here I was, all of a sudden on the Board of the Bar Association.

As well as the Legal Aid Society?

Yeah. I was just getting started. So what I did, one of the first things I did on the Board of the Bar

Association, Charlie's regime began, as I remember it, in maybe the late spring or early summer. I guess nothing much was done during the summer, but in the early fall, we would have regular meetings and what I did right away was to propose what amounted to a study of the Legal Aid Society and the need for expanding and supporting and so on of the Legal Aid Society. And that was done. And, as a matter of fact, we, under Charlie's leadership, we set up a committee that made a really vigorous study of legal aid and what was needed here in the District of Columbia. The committee staff was headed by David Acheson. There was part-time . . .

You mean David Acheson?

Yeah. One of our people here in the firm. And we got, we got some money from the Meyer Foundation and there was some money from some other outfit that may have been, it may be in that article. In any event, we got money and the result was that there could be, actually be hired a staff to work under David Acheson, of young lawyers, some of them later became of some prominence, digging into the Legal Aid what went on here and what was needed and so on and there was ultimately, oh, I don't know, a couple of years later, there was actually published a big Legal Aid report, it's one of the most important documents in the history of Legal Aid in the United States. It's about

that thick and maybe, probably there's a copy of it up there.

Legal Aid, at the time, was involved with both civil and criminal cases, is that right?

No. Legal Aid was just civil. The Legal Aid Society. Well, in the meantime, I was on the Board of the Legal Aid Society and what we got going was actually raising some money with the support of the Bar Association. And we were also hoping to, I said the support of the Bar Association, we found rather quickly we could get more support from the Judicial Conference than from the Bar Association. Once Charlie Rhyne had ceased being President, he went on, you know he ultimately became President of the American Bar Association.

Right.

I think he was the youngest person ever to be President of the American Bar Association. But what we soon found was, it was very difficult to get any kind of really aggressive, vigorous support from the Bar Association but we could from the Judicial Conference. Prettyman was then the Chief, Justice of our Court of Appeals and was, and ran the Judicial Conference and I knew Prettyman well. We were both golfers at Burning Tree and he knew me from my activities down at the court and so on. And Prettyman was a person with a real sense of

public obligation and public service and, the net of it was, that we very quickly were able, through the Judicial Conference, to get, drum up support in the Bar generally. And started fund raising. And we got, we were able to get the income of the Bar Association, of the Legal Aid Society, raised to well over \$100,000 a year, which to me seemed a fortune compared to what it had been.

Right.

Of course, of course, it . . .

And in fact it was a fortune compared to what it had been.

Well, yeah. But it was, it seemed to me to need a lot more to enable the doing of much more than in fact \$100,000 would permit. In the meantime, there was this effort at legislation, at setting up legislation of some sort or another to . . .

This would be under the Kennedy Administration?

Well, yeah, yeah. But there was, but we actually, we actually had, we actually had the Legal Aid Society here going on a significantly expanded basis and, and there was, under the Kennedy Administration, there had been the United Planning Organization that had been set up locally that some money from the Federal Government, I've forgotten what the appropriation was. And all of a sudden one day, I'd, we were getting some, we were getting some support from that direction and I, my, I was getting the

office, my firm very much interested in the Legal Aid Society; we were, I think by that time we actually had assigned to the staff of the Legal Aid Society for three-month stretches, a young lawyer from our firm that, that was very unusual to do anything like that.

It was. It still is.

Yeah. And I think, I think a lot of this is told in that article. Well, the point of the matter is that one day, one June day, there called on me in my office a lawyer from Philadelphia who said that they were having a, he was very actively involved in the ABA, this was Forhees(?) and he said they were having a meeting at the United Planning Organization, at the, one of the agencies that had been set up under Kennedy. In any event, the whole matter of legal aid was up and they were talking about having some, getting some kind of legislation for federal appropriations for legal aid and . . .

How did that idea strike you?

Well, I thought that was fine. We, hell, we were doing it here already. But I didn't have any idea what was going on nationally. I'd paid no attention whatever and this guy, other people nationally didn't know much about what was going on in the District of Columbia. We were just quietly going ahead and we got some money and we were pushing ahead with our support of our Judicial

Conference. The net of it all was that I got curious and got involved with what this meeting was all about and it turned out that the Federal agency that had been headed by Kennedy and, of course, ultimately the agency that was set up by Lyndon Johnson was a very, very active, aggressive crusading outfit and I got mixed up in it.

What do you mean you got mixed up in it? Were you opposed to the kinds of cases that they were taking in?

No, no, no, no, no. They were, what they finally decided to do was to set up a national organization to promote legal aid and, but not legal aid in the conventional, old-fashioned sense but aggressive legal aid that would be law reform and, really, a two-fisted, hard-fighting movement to improve the law for poor people.

How did you feel about that?

Well it was fine. It seemed to me perfectly fine. Great. About time somebody began to get aggressive. And, well, one thing led to another and finally money was provided through, it was on a temporary basis from the, from the Economic... I've forgotten.

Office of Economic Opportunity?

Something. And money went to the District of Columbia and we had what was called a United Planning Organization here, UPO, and they actually created a neighborhood legal services project. So that here was the

Legal Aid Society, we were getting money from the Bar and getting more increasing support and here was an NLSP, Neighborhood Legal Services Project, with neighborhood offices around, the Legal Aid Society had never had any neighborhood offices.

Was that because you just couldn't afford it?

No. They couldn't afford it. I had been able, we had one branch office; finally we're able to get one branch office which we set up out at Howard, at Howard Law School, or Howard University, but that was sort of nominal. But in any event, when, my thought had been when this NLSP was set up, and I think in these articles I tell about how all that came about, my thought had been that we would get the Legal Aid Society and the Neighborhood Legal Services Project in one merger, into one organization. It was silly to have it two separate organizations. Well, I worked toward that objective for a while and then all of a sudden, and here I was on, had been brought onto the Board of the NLSP, as well as being on the Board of the Legal Aid Society and all of a sudden I was told by people very much involved in NLSP that it was thought that there was a conflict of interest between the Legal Aid Society and these neighborhood legal services.

You were saying that there was a conflict of interest between your being a member of the Board of both the Neighborhood

Legal Services Project and the Legal Aid Society. How did that strike you?

Well, I thought that was silly but, but I, instead of arguing about it, I figured well, all right, accept it. But as between the two, I wanted to stay on the Neighborhood Legal Services because it was a much more aggressive movement than the Legal Aid Society and also there was the obvious advantage of having available federal money so that although the Legal Aid Society had been better off financially than it had been initially, it still was dependent on raising contributions, locally, and it wasn't anywhere. It was becoming evident to me that that wasn't anywhere near enough money and the only way, really, to get Legal Aid established properly was to get the benefit of significant amounts of federal money. So I resigned from the Legal Aid Society Board and became very actively involved in the Neighborhood Legal Services Project.

Now was that the Neighborhood Legal Services Project locally, or on the, on a national level through . . .

First locally. Locally. And we, well, it's a long story; some of the Court of Appeals judges had been involved in helping getting this thing under way. Various community agencies were, their support and interest were elicited and, fortunately, there was a group, mainly of

black lawyers, who were very actively interested and I think one reason for their very active interest was that whereas Legal Aid Society had always been a kind of a white man's activity, this Neighborhood Legal Services Project, I'm talking about the running of the thing, this Neighborhood Legal Services Project, it was, it looked as though blacks could really get involved and play a big part in the running and guidance of the thing. I think they just, they just had more confidence in it. And, there's something to be said for that point of view, the Legal Aid Society had been a much more conventional kind of old-fashioned legal aid operation with particularly bringing to the fore such ideas as law reform whereas what a number of people felt, and this was very true of some of the black lawyers, what a number of people felt was that more was needed than simply to defend, or some particular interest of some poor person, in a particular piece of litigation, that there should be efforts to improve the law and improve the decision of cases and improve the direction of the precedents we're taking and so on and so-called law reform.

You know, that's a debate that has been going on forever as far as legal services is concerned and one of the obvious questions is, to me, is at the time that you were on the Board of the Legal Aid Society and then you got off the Board of that to

stay on the Board of the more aggressive Neighborhood Legal Services Project, you are becoming an ever more prominent partner at Covington & Burling. Certainly some of the law reform efforts that Neighborhood Legal Services was advocating, were at least arguably contrary to the position that one or several of your firm's clients might have taken. How did that, how did you reconcile that? Was that a conflict in your mind and if so . . . how did you reconcile that?

No. We never worried about clients' attitudes and, to our doing, our do-gooding, it never bothered us a bit. Did any clients come to you and say, look I . . .

I don't remember any.

Or did any other lawyers in the firm?

Not that I know of. It may, there may have occurred but I never heard of any, anything of the sort. I think, I can't help but believe that a lot of lawyers, and this may be a reason incidentally that the Legal Aid Society never really had amounted to a great deal, it may well be that lawyers feared that if they got too aggressive that they would lose clients.

I think that's true.

Yeah, yeah. But that never, I think it's fair to say, and I was close to the running of the firm mind you, I was right in the middle of things here for many, many years, I wasn't just out on the periphery. I was very

much involved in the firm administration and so on, and I don't remember anything to indicate that our very aggressive interest in legal aid and providing legal help to the indigent and seeking to reform the law in the interest of the indigent, I don't remember anything, ever, of any consequence in the way of adverse client reaction or losing clients on that account or anything of that nature.

A hypothetical question -- and I think I know the answer to it -- but if it had caused problems with clients, what do you think you would have done?

I'd have said the hell with the client. And I mean that. And I think that point of view would have had a great deal of support from within the firm. I may say that in all the things that I did over the years, from the time, from the very beginning, and I did a lot of things, I always had complete, utter sympathy and support from my brethren in the law firm.

That speaks very highly, not only of you, but of course of your firm.

Oh yeah. Yeah. God it was true. Judge Covington, now mind you, a conservative like Judge Covington, I called him comrade and he'd never bat an eyelash. [Laughter] I thought about it in later years, I just couldn't help but laugh to myself. [More laughter] Oh, they were, the

Judge and Mr. Burling were wonderful. And they created a set of ideas and attitudes and so on at the firm, at least up until recent times, I don't know what it is now, but attitudes and values that the firm was faithful to, been faithful to all these years.

How long did you stay on the Board of the Neighborhood Legal Services?

Oh Lord. I've forgotten. I can't remember. I was on the Board for a long, long time.

When we first discussed this, I think that you had mentioned that it was after the OEO legislation under Johnson came into being that you began to kind of phase out, at least on the national level, of legal services. Is that right?

You see, I got, I got drawn into what once, once I got beyond just the local Legal Aid Society, I immediately began having contacts with the National Legal Aid Association and ultimately I was brought onto that Board and ultimately I was made, in effect, their lobbyist here in Washington to work on government problems that they had and seeking to strengthen the support for the National Legal Aid Association, NLADA it was called, and I just got spread all over the place. Now, what all this ultimately led up to was an absolutely fascinating experience under the Nixon Administration. It became apparent ultimately, LBJ had not, was not going to run for

re-election and the Republicans won the presidency and Nixon became President and the problem of all of the social services and so forth that had been set up in the days of Lyndon Johnson became very severe and very tough. We saw, we interested in legal aid had seen all along that legal aid should be regarded as something different from emergency government aid, government aid to meet an emergency situation. It had nothing to do with the kind of social reform and the meeting of the sort of temporary emergencies that the Johnson Administration social services groups had been so much involved in. Legal aid shouldn't be thought of in those terms. Legal aid should be thought of as a permanent thing. In days of prosperity there was still need for the legal aid operation. Because there always would be some poor people who needed legal help. And this was very fundamental and we began with the National Legal Aid Association, we began to cultivate that idea. And instead of being upset at the elimination of the Lyndon Johnson kind of United Planning Organizations . . . Office of Economic Opportunity.

All that. We didn't much care provided we could get legal aid separate and independent and indeed that would be an improvement. And I was actually made a lobbyist for the National Legal Aid and Defender Association. Their

lobbyist here in Washington to work to that end. Get somehow or other a separate and independent recognition of legal aid on a federal basis, with federal support. And I got into it and I very vigorously, fortunately, mainly through Burning Tree, there were some fairly important Republican politicians that I knew, and knew well and I respected them. Not because I necessarily agreed with their ideas, but they were decent people and I could, I could get access to them. And, as I say, I became a lobbyist for the National Legal Aid and Defender Association and despite the fact that here was Nixon in the White House, and despite the fact that there were a number of elements in the Nixon Administration who were working to eliminate anything in the nature of federal support for legal aid, I was able, quietly, to maneuver and get introduced to the right kind of people and get on the staff, the White House staff and I found some people who really would listen.

Who were those people on the White House staff?

God, I've forgotten their names now. I remember one guy, I can't for the life of me, I can't remember his name. He was tremendously effective. He did a lot of the drafting with me and I drafted measures. Isn't that awful, I can't think of his name?

Well, that's on the edit.

And then we, I also had effective access to . . .  
Nixon had two main guys on his staff. Who the hell were  
they?

Haldeman and Ehrlichman?

Yeah.

Who later became famous for other things.

I've forgotten now which was which. But in any  
event, I had access to one of these two top guys and he  
would listen. And we made a lot of headway. And this  
was, this was not as a result of pulling strings or  
anything of that nature. It was simply that I had been  
able to get behind closed doors and although some of these  
people knew I was a left-wing communist, we respected each  
other, we knew each other and over long periods of time had  
seen things happen. And I found myself able to, on an  
independent basis, and I finally told the National Legal  
Aid and Defender Association, literally, I finally told  
them now, look, I'm no longer representing you. I'm not  
your lobbyist anymore. I am solely Howard Westwood and  
what I found was that on that basis I could get farther  
with, in accomplishing the things that I wanted to  
accomplish and really, it worked like a charm.

And the end result was the Legal Services Corporation?

And the end result was that. Now it took a lot of  
doing, and ultimately, you see we got things through, I

was trying to think, we got the statute, see it wasn't until the Nixon Administration that we really started working on getting the federal legislation on legal aid. And we got the statute adopted in the House. Isn't that funny, I can't remember now whether it was the House first or the Senate first. But, well, I don't know.

But that's a matter of record.

Oh yeah. But the point of the matter is that it was all spread over a period of pretty close, about a year, and maybe even a little more than a year, and then at the critical time, right at the end, after we'd finally gotten things through both Houses, here was the imminence of Nixon's departure. But fortunately, in the White, then in the White House was the ex-Secretary of War, he's now President of Burning Tree.

Well, that's another name that's easy to get because I don't know that one.

He'd been very prominent in Congress and then Nixon made him Secretary of Defense.

McNamara? No, that was Kennedy.

Secretary of Defense.

Laird?

Laird. Mel Laird.

Right.

And Mel Laird quit at the end of Nixon's first administration but then before he got settled into, oh, the Reader's Digest and the later things that he was doing, he was on a kind of a special basis helping the White House as though, virtually as though he were on the White House staff and some, and, of course, Mel Laird was at Burning Tree. And I knew Mel Laird. And it turned out that he got, that he was very interested in legal aid when what was going on was explained to him, what this was all about. And he knew damn well that there were right-wing, dangerous people who would seek to sabotage anything of that sort. And Mel Laird, God bless him, gave me real help. And if it hadn't been for Mel Laird, there never would have been a, there would have been a veto by Nixon, I'm convinced, of the federal legislation that set up the National, the . . .

Legal Services Corporation?

The Legal Services Corporation. I'm sure that he would have been persuaded to veto it. Mel Laird took care of that. Nixon signed it and in about two days he was on an airplane, he had resigned from the presidency.

[Laughter] Mind you, we did, we pulled this off in that last critical period of the Nixon Administration.

Well, that was quite a victory.

It was really, and it never could have been done unless I had been, divorced myself completely from all

these left-wing organizations and all the formal organizations on legal aid and so on and had presented the matter simply on its own merit, individually, to these guys on and in connection with the White House with whom I was able to get access.

That really was quite a victory. Why don't we stop for today.

Mr. Westwood, it's April 17, 1992. We're back together after a two-month or so hiatus and, again, I appreciate your taking the time to spend with me and this project. We left off when we last broke off at the point where you had described your involvement in Legal Aid. That was in the period roughly in the early to mid-1970s and, what I would like to focus on a little bit this morning, if we could, is your practice after that period of time.

Okay. It's a little difficult because I find that my memory has really gone to pieces and we're talking now about a time, it was about 20 years ago.

I must say that your comments that I've taped so far don't reflect a memory that has gone to pieces.

[Laughter] Well, maybe that's because I was always more interested in the things I was talking about than the practice of law. [Laughter] After I got through the