

**ORAL HISTORY OF
DANIEL “MACK” ARMSTRONG**

First Interview – October 22, 2011

This interview is being conducted on behalf of the Oral History Project by the Historical Society of the District of Columbia Circuit. The interviewee is Daniel “Mack” Armstrong and the interviewer is Matthew S. Sheldon. The interview is taking place at the Law Offices of Goodwin Procter on October 22, 2011. This is the first interview.

Mr. Armstrong, who was with the Federal Communications Commission for many years, and Mr. Armstrong has graciously offered to let us tape his oral history.

MR. SHELDON: Mr. Armstrong, today, what I would like to focus on is your upbringing, your college experience, and, if we can get to it, your early legal career. So, first, thank you for being here with us and I hope you could just give us a brief personal background about yourself and where you’re from.

MR. ARMSTRONG: I was born in Kingsport, Tennessee, which is about 30 miles from the town in which I lived my entire childhood, which is a small town – Rogersville, Tennessee. I was born three weeks and one day after Pearl Harbor, December 29th, ‘41. In my, until I was five and a half years old, I was the only child. My brother was born when I was about to enter the first grade in ‘47. My father was a merchant, he and his first cousins and his uncles had a family department store in Rogersville and they held that store until ‘82 when my father was beginning to, his health was declining, his partners felt it was declining so they sold it. But he was a merchant and he, my mother was a stay-at-home mom. She had grown up in eastern North Carolina, had gone to Mary Baldwin College in Staunton, Virginia, and had roomed with my father’s first cousin which is how she met my father. He had been a University of Tennessee graduate – and my paternal grandparents were both dead by the time I was born. My grandmother died when my father was 15 years old and then my paternal grandfather died about four months before I was born. So my real grandparent experience was on my mother’s side and

they lived in Tarboro, North Carolina, which is in eastern North Carolina about 15 miles east of 95 and we would spend summers over there with them. In fact, my father was, he was stateside, but he was, when he was in the service in World War II, my mother and I actually lived in Tarboro with my grandparents for about two years, and then subsequently we spent our summers there. I went to the elementary school in Rogersville in grades one through eight and then my father, I was young, since I was born in December and in Tennessee in those days you could start school when you were six years old before the first of January, now most places you have to be six before the first of September or October I think it is now. But I started school when I was very young. I was one of the younger people in the class, and when I was 13 and a half years old, my father said, well we had an excellent elementary school but he was concerned about the high school, so he said “I think...,” he and my mother said, “We think we ought to send you off to prep school.” So I went to the McCallie School in Chattanooga, Tennessee, which at the time, it was a military school, with military training. It was a very strict school, but it was a wonderful experience for me, anyway, I met a lot of nice people. I enjoyed the academics. I didn’t particularly like the military but I got through it. I had heard about Princeton as an excellent undergraduate school so I was thinking about applying to Princeton, and then one day the headmaster came in and he said we get to nominate every year two seniors to go to Chapel Hill and interview for the Morehead Scholarship at the University of North Carolina and we would like to nominate you as one of our two – and it was a shock to me because my limited understanding at the time of the Morehead program was that it was patterned on the Rhodes scholarship program and I know, at that time, Rhodes Scholars were perceived, you know, it looked for athletic excellence as one of the primary qualifications – and my physique was not good, I was not a good athlete, I didn’t have anything in my McCallie resume on the athletic

side, so this was a shock to me. I didn't really expect that this was going to happen. But, I thought about it and obviously I had some eastern North Carolina connections and so decided to pursue the possibility. The interview, in those days if you got nominated by a preparatory school, the interviews in Chapel Hill were usually pretty easy to pass. You'd have to really screw up if you weren't going to get it. Unlike the people in North Carolina who competed for those scholarships, and who had a very rigorous, competitive system with a number of, a series of interviews. To make a long story short, I got the scholarship. So in the fall of '59 I entered the University of North Carolina and...

MR. SHELDON: And let me go back for a second and just ask you, what was the community like that you grew up in?

MR. ARMSTRONG: Quintessential small town. It was one of the older communities in the state of Tennessee. I think when I was growing up, the population was probably about 3,000. It was, I would guess largely white. There was a black college there that had been there for many years and so there were a number of black professionals that were in the community, the black population of the community was a very highly educated group – but this is before *Brown v. Board* when I was, *Brown v. Board* didn't come down until I was in the seventh grade. They always said that our town in the Civil War had been divided, which I think was true from subsequent things that I read, in fact there's an old hotel on one side of the street and an old house on the other side of the street, and the lore has it that the Confederate Army stayed on one side of Main Street and the Union Army stayed on the other. My family, I think, were probably, they were not, I've never heard of any stories that they were warriors but they were Union sympathizers. We were very active, and my father was very active in the Presbyterian Church, and that was a major part of my upbringing, Sunday school, Sunday morning services in the

church, and the social activity was very much organized around the church. There were no, there was no kindergarten in those days. I didn't have pre-school of any sort. All the organized sports activities, which occupy young people today, they really weren't there then, so I mean recreation would sort of consist of, you know a bunch of kids in the neighborhood coming out in the driveway in the afternoon shooting basketballs for a couple of hours after school, but it was, I mean everybody sort of seemed to know everybody, obviously the people you knew best were in the church because you knew everybody.

MR. SHELDON: And what would you do during free time?

MR. ARMSTRONG: My dad was a golfer and I occasionally would go out with him, but for the most part it would be pick-up basketball and tennis with my neighborhood friends. None of us were any great tennis shakes but we enjoyed playing over on the tennis courts near the grade school. My father did not hunt and didn't fish. My uncle did but I never picked up those sports, and in North Carolina, we would, we went to baseball games, there was a minor league baseball team there. My grandfather would take me to their games. We had, I had four cousins in North Carolina, along so when we were staying with my grandparents, I was the oldest grandchild. I was a little bit older than any of the rest of them, but we had fun, sort of just backyard picnics and do stuff with my cousins.

MR. SHELDON: And this was a segregated community, at the time?

MR. ARMSTRONG: Yes.

MR. SHELDON: What was your earliest recollection of segregation?

MR. ARMSTRONG: It was a very, in Rogersville, as I indicated earlier, there was a small, highly educated black population. We had domestic help in our house, so we were very, very close to the people who worked 9 to 5 domestic service there. But I don't ever really recall

that it was a big issue in our town. I remember when *Brown v. Board* was decided, we had segregated schools and it didn't really register on most scales at the time how significant this was. I'm, now quite different in eastern North Carolina. Totally different over there in the summertime. My grandfather to whom I owe a lot, to whom I was devoted, but he was very much, he was a businessman in Tarboro and he certainly did some business with the black population. But it was not a highly educated black population and it was a very numerous black population and my North Carolina relatives were much more extreme in their, you know, concerns when schools began to be integrated. It was a very different culture in my North Carolina experience.

MR. SHELDON: Do you have a recollection of when you first became aware of segregation?

MR. ARMSTRONG: I'm not sure I ever really focused on it, until after the *Brown* decision. That was sort of the conscience-raising experience. Because we did not have any incidents of any sort in Rogersville. The races seemed to get along very well.

MR. SHELDON: Were you already out of the public school by the time integration had occurred?

MR. ARMSTRONG: I was already off at McCallie Prep School. I'm not even sure of what year they began to integrate the schools in Rogersville, but I was off at McCallie. McCallie was, my recollection is we had very few, if any, blacks that were there when I was there from '55 until '59. So I did not have much schooling on an integrated basis.

MR. SHELDON: How much were you tracking national and world events during your time at McCallie?

MR. ARMSTRONG: We were very much aware of the political scene, yeah we were. *Sputnik* and all of that stuff started when I was at McCallie.

MR. SHELDON: What's your earliest recollection of the practice of law growing up?

MR. ARMSTRONG: In a close-knit community of Rogersville, there were, you know, a handful, not since it was a small town, there weren't that many but there were a handful of law firms in the downtown area and many of the attorneys happened to be members of our church, so friends of our family, so I certainly, but there was nobody in my family that was a lawyer. There was really nobody in my mother's family over in North Carolina that was, the same thing. There were social friends of my grandparents and my uncles over there who were attorneys so I was aware of the existence of attorneys but I didn't come from any kind of a lawyer background at all – and I guess my first sort of gravitating towards the law myself, I liked debating, that was one of my extracurricular activities at McCallie, and I liked politics. My uncle in North Carolina in the summertime and I would have great fun at the dinner table on Sunday arguing politics, arising from my background coming from east Tennessee, which was Republican and my uncle was from eastern North Carolina which was strongly Democrat. We used to have spirited political debates and I enjoyed that, I enjoyed it obviously on a more organized basis at McCallie, and I continued the debating when I got to North Carolina. I was a major in American History and it just sort of seemed like studying law would be an interesting thing to do. It was not because of any family pressures to do it.

MR. SHELDON: Going back to your decision to attend the University of North Carolina, can you tell us about why you chose it, and your experience there?

MR. ARMSTRONG: Well, there was I think it was not until this opportunity with the Morehead came up, it was really not on my radar screen because I think one of my uncles from North Carolina had gone there and he was a party boy and never graduated, just had had too good a time – and it was known as a party school and I think my mother and my grandmother in particular knew that. They knew that I wasn't, I was a quieter type, I was really, Rogersville was a very conservative town. Tennessee was just, Knoxville was just 60 miles away. At that point when we were growing up, it was one of the largest cities in the country that didn't even have legalized liquor. So it was a very, drinking was frowned on, neither my mother nor father drank. They knew about the reputation of Chapel Hill. I think they were a little bit ambivalent when it came up on the radar screen. Ultimately, I think what drove me to do it was: one, my prep school had honored me with one of its Morehead Scholarship nominations; two, I do have ties with Carolina and I knew that despite all of the things that were of concern, it's a good academic university. My father had sacrificed to send me to McCallie. His income as a merchant of a small town certainly gave us a good life but it certainly wasn't easy for him to send me to McCallie and I viewed this as a little bit of a way to help financially, to take the scholarship. I think those were sort of the reasons that I decided to say I'm going to North Carolina. I withdrew my Princeton application.

MR. SHELDON: What was your first impression of the school?

MR. ARMSTRONG: I was in the honors program, and so that was a group of, I think about 30 or 40 of us, the first years. We got our own set of classes and I roomed with, my first year, with a student who had also graduated at McCallie whom I knew, and I got very active early on in the debate team. It was one of the "small world" stories. I sort of showed up there, having done it at McCallie and liked it, but they didn't have a huge program at Carolina. In fact

at the time they had, they were looking for somebody who was going to actually take charge of supervising the debate team. They had an interim English, interim coach who was an English professor – and he, for some reason, he seemed to take a liking to me and gave me, there wasn't that much competition. But he took a liking to me and he sent me off, I think if I remember correctly, to a debate tournament within a couple of months after I had arrived, so I was immediately sort of thrust into debate. So in between trying to do the honors stuff and, you know, doing debating which means about five or six trips a year, that was pretty much...I didn't have a car and people who knew me no doubt expected I would be at Carolina for its academic benefits, not for its party benefits, and I sort of made good on that. I just kept my nose to the grindstone and...now one interesting story, I mentioned this English professor who was my interim debate coach and our paths more or less diverged after the first year when they finally got a permanent coach, and I think I never had him in English, but when I came to DC, fast forward a few years later, I was reading the newspaper one day about the Folger Shakespeare Library, they mentioned the Director of the Folger Shakespeare Library, it was Dr. O. B. Hardison. I said, I remember that name, he was the English teacher.

MR. SHELDON: I've heard stories that there may have been another D.C. attorney on your debate team, perhaps Judge Sentelle?

MR. ARMSTRONG: Indeed he was. He was, I had to, he had to refresh my recollection in whether he was one year behind me or whether he was two years behind me. I think it was probably two years, but he was on the debate team, and I remember, we took a trip, he was from western...I was from a small town in eastern Tennessee, he was from a small town in western North Carolina, and I remember that we took a, the team went on a tour of some of the high schools in western North Carolina, and we had a debate at the high school in Canton, I think it

was, that's where he'd gone to high school – and our paths sort of parted for about probably six to eight years but then I was in DC, I remember, I think in some way hearing from him that he was going to be in town and so we had sort of reunited at dinner – and I had a little bit of dealing with him on the job, when I was at the FBI, and then our paths more or less parted...diverged...but when he became a judge, on the D.C. Circuit some fifteen years later he was very nice to follow the *Federal Reporter*, I guess, and he couldn't help but know I was an attorney at the FCC. By that time, I'd become an attorney at the FCC, and he invited me to be one of his guests at some of the judicial conferences.

MR. SHELDON: And I have to ask, did you two ever debate each other?

MR. ARMSTRONG: I'm fairly certain that, in the intra-squad scrimmages, we did. And I think I remember, at least, the debate we had in his high school, in Canton, North Carolina. We had some good repartee back and forth. I can't remember if we were partners. I suspect we might have been on opposite sides. But, in any tournaments or anything we went to, the way that we were organized, we were always on the same side.

MR. SHELDON: Do you have any impressions about him as a debater?

MR. ARMSTRONG: Absolutely classic, good ole guy, with good common sense. My memory from listening to him then is that he talks now, just like he did then. There are a lot of people in the FCC, who tell me that they sometimes have a hard time understanding the Judge when he asks questions from the bench, and I'd say, well, you know, I've had a little more practice listening to him. But just a really good—I was not surprised that he had subsequent success, because he had a good way with people, and he had a lot of street smarts.

MR. SHELDON: You went to college at a turbulent time. Were there active civil rights efforts under way at UNC at the time?

MR. ARMSTRONG: It's funny you should ask that question, because it sort of ties in again with Judge Sentelle. He was gracious enough when the Communications Bar Association gave me an award three years ago—I think it was—and Judge Sentelle was gracious enough to come speak, and he brought up some aspects of our time together in Carolina, which I remembered, and some that I had sort of forgotten about, but this focuses around this student at the time, and there didn't seem to be very many, but one of the relatively few black students at Chapel Hill. It was a student by the name of Kellis Parker, and Kellis came out for the debate team and was a perfectly—there was never any question on my part that he's a student of this university; he wants to debate; he's on the team like everybody else. So, it was—and nobody in the student body complained. The Judge, in his remarks at the ceremony, suggested that it took some courage that those of us on the debate team worked with Kellis as well as we did. But there was nobody—students never gave us a hard time. Either the debate team was below everybody's radar screen or just everybody, you know, had other—whatever it was, but there was never a problem integrating Kellis into, and later I think he became clerk for Judge Robinson and died at much too young an age, after being, I think, a professor at Columbia University. And there was a nice write-up when he died in the *New York Times*. But in any event, there was just never any problem integrating him into the work of the debate team. It was just not—and we may have been one of the relatively few extracurricular groups that was integrated, but it went off without a hitch. I was certainly aware of the potential sensitivity at the time from the fact that Kellis was black, in an environment that was largely white and in a part of the country that had a long history of difficult race relations. I worked with Kellis on a professional basis: excellent. The Judge even remembered something that I had largely forgotten: that we were coming back on the train from a debate somewhere and Kellis was there.

And I don't know exactly how this happened, but I do now remember that it did happen: that there was a policeman who came, and my recollection is, the policeman said, when we got to Raleigh that because of an alleged incident involving Kellis on the train he was going to be put under arrest. And I think the rest of us that were on the group. Ultimately, I was trying to remember, the Judge gave me credit for something - what is it I did? I think when we got back to Raleigh, we were able to convince the policeman, who was still insisting on pursuing this alleged charge against Kellis that I would be responsible for ensuring that, you know, Kellis showed up for the proceeding. And, for God's sake, let Kellis go back to Chapel Hill with us. And that's something that—I think that's what happened. And ultimately, I think, after we got back to Chapel Hill, cooler heads prevailed, I'm not even sure I had to do anything. But nothing further happened. But—so that was, as I look back on it, the positive side. There was one episode, though, which I remember, and it dramatically brings home to me how different the world was then from what it is now. I got on the bus somewhere, I think it might have been in Raleigh, to go back to Chapel Hill. It might have even been up here in D.C., I'd been up here to get material for the debate team. Just because I liked coming to Washington and was headed back to school. And when I got on the bus, there was Kellis, to my surprise. And he was seated, he was probably seated in the front of the bus, and nobody was sitting next to him. There were a fair number of people on the bus. I certainly spoke to him in a very professional way, but it didn't occur to me to sit down beside him and ride back to Chapel Hill. You know, I was in the row behind him or the row off to the side, and I didn't carry on a long conversation with him. I think that was simply just a reflection of the fact that my temperament was not to make waves and I had the perception in my mind that if I'm too overtly friendly with Kellis on this bus, you know, these other people at the bus station, other people getting on the bus, might not like it. I

was not one to provoke an incident, so, you know, I spoke politely and he did the same to me, and we just sat in our separate place. But he didn't—if there was any lingering problem in our ongoing relationship on the debate team that resulted in not having taken advantage of that occasion to be locally supportive, he never showed it. We got along fine. But I was, again, not the demonstrative type. I was politically conservative. Chapel Hill had a reputation of being a fairly liberal place, but I didn't run with the sort of crowd that was really taking an aggressive posture on the civil rights. That wasn't really the group that I hung around with much. We never had any unpleasant situations, but just kind of a separate existence. And I still don't remember a large black student body the entire time I was there. There were a lot of very active civil rights people, but they were all white.

MR. SHELDON: When did the Vietnam War enter the picture?

MR. ARMSTRONG: The other big thing of my generation, quite obviously, was that. My first real recollection of Vietnam really didn't occur until the fall of my first year at Harvard in Boston. I remember in, probably, September or October, Kennedy was obviously still the President, it was before Dallas – Madam Nhu, who was the wife of one of the two, of the brothers that were running South Vietnam, and had become something of an outspoken controversial person. She was on a tour of the U.S. and she spoke at, I think, Cambridge Rindge High School, which was not far from Harvard. And some of my friends from law school and I, we went down to hear her. And I remember—I mean, I knew from the newspapers that she was controversial, and I remember there were some demonstrations there the night she spoke. About four to six weeks later, it was November 1st, that was the day of the coup in Vietnam, her husband was killed, her brother-in-law was killed, I guess she went into exile, I can't remember specifically.

But, I certainly was aware in that autumn of '63 that there was turmoil in South Vietnam. Then, of course, three weeks after the coup in Vietnam was Dallas.

My next big recollection about Vietnam was in the summer of '65 when President Johnson sent – made the huge commitment of troops. I was working as a summer associate in New York, when he made the speech that he made, going in on a full-scale basis. There've been a couple of these incidences, obviously the Gulf of Tonkin in '64, some isolated incidents in '65 before the big buildup. But obviously that was something that, in the summer of '65, when the huge troop commitment was made, that was something everybody in my generation knew was going to have a huge impact on us. It was something I don't have to elaborate, it certainly did.

In the autumn of '65, after he had made the build-up there and I was in the Young Republican group and there was, believe it or not, at Harvard, in those days such a group. The Ripon Society was fairly active up there, which was a group of more liberal Republicans and we had a fairly sizable membership in the business school and the law school. If you put them together, it was a fairly sizable—surprising for Harvard—membership in the Young Republican club. An upper classmen, my freshman year, had gotten me active in that club, so I was in a leadership position in the club in the fall of '65. And there was, a sentiment was circulating that there should be a bi-partisan show of support for the American commitment in South Vietnam. And there was a resolution circulated and a few, I guess you could say, principled members of our club, refused to sign it. It was a fairly, broadly supported resolution. I remember that was done. I think it might also have been a little bit of method in everybody's madness because my recollection is there was more support for that war coming out of the Republican Club than there was out of the Democratic Club of the law school, at the time. I think there was a certain satisfaction of a partisan nature in going public with this difference.

Now, to fast forward: I applied, I was going to try to get a commission, figuring military service was going to be absolutely inevitable, I would try to at least not be a buck private in the army. I would see if I couldn't get the commission and I applied for commission in the Air Force and I was also going to parlay my legal background, if I could, and get something in the Judge Advocate General area. Applied for a commission in the Air Force, if I remember correctly, I was very busy working on that in my last semester in law school, which would've been spring of '66. Turned out that, I didn't get it and at about that time, the summer of '66, I had been notified that I did not get that commission, I also got a letter from my draft board giving me my orders to report.

MR. SHELDON: Were you given a draft number before that?

MR. ARMSTRONG: Oh, I had a draft number. In our generation, we'd already registered way back-when I was probably, let's see, was it 17 when you registered? I think I'd registered before I'd ever graduated from Carolina. I got the deferment, to go to the law school, which a lot of people in my generation benefitted from getting. That was one of the big issues of course, when Vietnam did heat up. But, in any event...

MR. SHELDON: What were the mechanics of how the draft worked?

MR. ARMSTRONG: It was before the lottery, so you got your notices. When my deferment was up, what had happened-my law school deferment was up. When I graduated from law school in June of '66, I believe at that time you were allowed to take the bar exam before you would receive an induction notice. You would be in communication with your local draft board. You would fully fill them in-particularly on any bit of information that would certainly qualify you for a deferment or a postponement of your induction notice. I think you were allowed to take one bar exam. At the time, I was making the decision about which bar exam to

take, I had not yet been turned down by the Air Force. So I took the, even though I had worked in New York as a summer associate, after the 2nd year and ultimately expected to be practicing in New York, I opted to take the Tennessee bar exam because it was quicker, I mean it was sooner and at this point I was still thinking I could get in the Air Force. So I guess I got a deferment to take that bar exam. About three weeks after that bar exam is when I got the letter of turn down from the Air Force. I believe it is also, just about that same time, or about three weeks after the Tennessee bar exam, that my local draft board, which was under huge pressure, I mean this was where the build-up was really intense and they were, the local boards were given their quotas. So, every-it was no surprise that, you know, the notice to report for duty came to me. And everybody else kind of, now here's where, you know, I was the beneficiary probably of the fact that I was raised in a small town-was a very close-knit community. The chairman of the local draft board had been a member of the church in which I had grown up. I was very open about it. I said, Look. You've given me everything I'm entitled to. You gave me a deferment for law school. You gave deferment for the bar exam in Tennessee. I said, and I, not trying, I know that military duty is inevitable, I'm not trying to get out of it. Is there any chance that I could take the New York bar; you let me take the Tennessee one, is there any chance I can go ahead and take the New York bar, while I'm relatively fresh out of law school, since I ultimately hope to practice in New York. The next New York bar is not scheduled until the end of November, the beginning of December. So, you know, I'm asking you for a-probably six months' postponement in my date to report." They did it. That wouldn't have happened, I'm sure, had I, you know, been in a big city. But this was, you know, the advantage of knowing the members of the draft board, having grown up that way. And so, I have no doubt. This gentleman is still living and I told him any number of times since then how indebted I am for

what he did. The incidental benefit of that was that during that extra six months, while I was working, back working as an associate at Chadbourne and Parke in New York, studying for the New York bar, I also got the commission in the Navy. The draft board chairman was really just, letting me take the New York bar while my law school learning was fresh. But it was in the back of my mind that if I do get this extra time, I don't have to give up trying to see if I can get the commission as an officer. I failed in the Air Force and maybe I won't fail elsewhere. And the only thing I had ever told my friend on the draft board, I said, listen, I know I've got military service in my future. I didn't say, my heart is set on being a buck private in the army. So, I didn't feel like I'd misrepresented it. But the upshot of it was that by the time I took the New York Bar Exam, I had my commission to be a lieutenant junior grade in the Navy JAG and my orders were to report to training in Newport, RI, in March '67, which I did.

MR. SHELDON: What were the influences there that led you towards law school?

MR. ARMSTRONG: I guess that there was no well-thought-out career plan that had been verbalized or put on paper. It was more, I guess, my cynics or critics could just say you just sort of stumbled along and one day found yourself applying for law school. But I guess it was the seeds of law school, I don't specifically remember this, but I guess the seeds of going to law school had probably been planted even before I got to Carolina. Carolina didn't just, you know, light the switch. And they were, nothing that happened there led me in a different direction. I majored in American History, I had a fair amount of Political Science courses or, I had the debating, I was active in the Republican group at Chapel Hill, there were also some Republicans at Chapel Hill in those days. So all of those things I guess reinforced sort of a latent tendency which was there at the very beginning. But I don't remember any single event. I just know that

when it came to our senior year, I had the applications for University of Virginia and Harvard. I think those were the two places I applied. And I signed up to take the LSAT.

MR. SHELDON: By the way, what was your major in college?

MR. ARMSTRONG: History, American History. A fair number of Political Sciences courses but it was American History. I had initially, in my junior year, I had started down the path of trying to graduate with honors in History, which involved a course your second semester of your junior year and then involved writing a paper your senior year. I took the course the second semester of my junior year and then kind of got cold feet about doing the paper my senior year because the debating took up a fair amount of time. We had, you know, six or seven trips a year to D.C. or New York or whatever, which required us to be out of town. I tried to take that seriously, I enjoyed it but I still considered it sort of work. I just began to think that I knew I'd be also applying for law school, taking the LSAT. All of these things, as best as I try to reconstruct what happened, I think I just decided it might be, I felt like I had the grades that would look good on my resume and I just didn't think I needed that extra "He graduated with honors in History," so I backed out of trying to write a paper and I didn't graduate with honors. I mean I was Phi Beta Kappa, I did fine with my academics, but I didn't graduate with honors. I just got the degree in History.

MR. SHELDON: Do you recall what the application process was like for law school at the time?

MR. ARMSTRONG: My recollection is that it wasn't anywhere, it wasn't anywhere as time-consuming and sensitive as I think it has now it has become... I don't remember when I actually submitted the applications. I don't remember that the applications were as difficult as I gather they are today. Certainly the initial application to go to Carolina was not anything like

what kids go through today when they're applying for college. The LSAT was given, my memory was, after the first semester we were in early February before I was to graduate in June, that's when you actually took the LSAT. I remember getting an acceptance from the University of Virginia in probably April. I don't think the acceptance from Harvard came in until May or June because I think I remember graduation weekend, which was at that point later than it is now, it was the first weekend in June. And I think I remember discussing with my parents at graduation that you know, now I had these two law schools from which to choose and that was something that we were pleased that they were both good schools and it was a nice choice but it was a hard choice. I think I ultimately said, you know I think, it was in light of subsequent history, I guess it's a little bit ironic. I think the thing that probably ultimately persuaded us sort of, as my parents and I as a group to pick Harvard was – you're a southern boy, the odds are you'll be spending your life, probably back somewhere in the South. It will be a little more broadening experience for you perhaps if you do your law school in New England as opposed to Charlottesville. That was the ultimate decision, and now as it turned out, if you count D.C. not being the southern city that we were thinking about when we made that statement, I think that when we thought about the South, we were thinking much more about Tennessee or maybe North Carolina. I really never, under that theory, I probably would have been better off to have gone to the University of Virginia because I have been in New York and D.C. ever since and been around a lot of Harvard people ever since.

MR. SHELDON: Did you have any preconceptions when you were thinking about law school and then beginning it about what you wanted to do with your law degree?

MR. ARMSTRONG: Consistent with what I said a few minutes ago about, you know, how I came to be an applicant for law school—did I have a well thought out career plan about

what I would be doing? No. I mean, I obviously knew that... well I worked, my first practical experience came after my second year when I was a summer associate at Chadbourne, at that point it was called Chadbourne Parke Whiteside and Wolff, so that, those ten weeks, that was my first practical exposure to the law. There wasn't nearly as much, I don't know what they do at Harvard now, but a lot of law schools, you know a lot more practical training earlier...but we were very much, sit in class, we'll tell you which classes to take, you don't tell us. We'll use the Socratic method and you know, it's grinding, and you just do that. So my first real practical exposure to the law was that summer and I, on the last day of the summer I was in the group of summer associates who were told that they would be welcome back after they finished law school and so I'm hoping the entire time in the third year of law school, even though I knew there was going to be an interruption for military service, I thought well that's a place that's there for me in the future. I didn't consciously say this is what I know I'm going to want to do and one of the appeals of being a summer associate at a large firm was, and then again for about six months while I was studying for the New York bar before I went into the military, one of the appeals of doing that was I knew I didn't have to make a final decision and so I thoroughly enjoyed it, but I, there was a little nagging uncertainty in the back of my mind about whether I would enjoy it as much if the military were behind me, my life is now ahead of me and here I am in New York. It was just, do I want to spend, you know, five or six years hoping that I become a partner and then do I want to spend time as a partner? Little uncertain. So, as I approached the end of my military career, the three years, about three or four months before I was to be discharged in the autumn of '69 I guess it was. I was reading the *New York Times* one Saturday morning in Newport, Rhode Island. With one exception, which I'll come to in a minute, I spent almost all my time in Newport. I was Stateside and I was an instructor in military justice, I was

reading the *New York Times* one Saturday morning when a little light went off in my head because I read that the new U.S. Attorney for the Eastern District of New York was Edward Neaheer who had been a partner, a litigation partner at Chadbourne Parke. And I'd worked with him. Unlike some of my other peers in my class of JAG officers who'd gone through training together, I really hadn't had the benefit of a lot of court martial trial experience. I had been in the academic side of it and I was chafing a little bit at that and I kept coming, talking to my military superiors, the military brass, can't you give me a little chance to do some trial work. So the desire to do trial work was in the back of my mind. And some nagging uncertainty that maybe going back to be an associate and work at a law firm was not something that I was really quite ready to commit to. I just, I jumped at the chance to seek out the U.S. Attorney in Brooklyn and say you know, would you be willing to take somebody with my accent in Brooklyn? And Mr. Neaheer was extremely nice and gracious about it and he took me. So when I got out of the military in the spring of '70, I had the opportunity to be an Assistant U.S. Attorney in that office.

MR. SHELDON: What was your initial experience like at Harvard?

MR. ARMSTRONG: Different experience probably from most people, but I, whether it was a reflection of the fact that we were a very closely knit family or the fact that I had been sort of separated for a major portion of the year from my parents since I was, went off to McCallie when I was 13 and a half years old, our summers were reserved for family. We took trips together, took vacations together. There was no, you know, pressure from my parents, you know, to get a job. My brother was, came along five and a half years later. He had a different experience. He was working at a place up in Acadia National Park in Maine. And looking back on it now, I think I perhaps missed a lot by, you know, just being a home-body. At the end of the

first year of law school, in '64, I was really...that was the hardest year I ever had in school was the first year at Harvard, and I didn't adjust probably quite as well to the different way I think that you should probably do your first year. I mean I had some study groups, they kept telling me do study groups, but I kept thinking you know, you can probably do, get through the first year of law school pretty much like I'd gotten through prep school and very much like I'd gotten through Carolina. And then, I was exhausted. My parents were a little bit concerned about me, that I'd just worked myself too hard, that the pressure of first year had been too much. So I really, after first year of law school, I sort of really needed that summer to kind of rest up and recover. I was not in great shape. I did a little bit of work for one of our local attorneys that first year, property deeds, doing title searches, for one of our friends who had one of these law practices on Main Street.

MR. SHELDON: Was it difficult for a Southerner to go up to New England?

MR. ARMSTRONG: It worked fine, it really did. I fell very quickly that first year into a little circle of friends. I was living there in one of the dorms at the school. And there were, I mentioned, I think I mentioned there was an upperclassman who was directly across the hall from me who took a liking to me and said I'm going to get you to come in and work with me in my Republican club, we had Republicans from business school, Republicans from the law school, get you into that, get you active in that. And he did. I met, probably a group of about six to ten of us who were good friends and took a lot of our meals together in Harkness Commons and we just got to be good friends. And so of this, I said earlier it was, I didn't realize until the end of the year how difficult academically it had been for me and what a toll it had taken on me.

MR. SHELDON: What were the classes like, as far as size, lectures, etc.?

MR. ARMSTRONG: Yeah, the classes were, I think the class was roughly 500. We were organized that first year into four sections, about 125 per section. I was a back-bencher, I was not a talker. I was, there were members of my section first year that I was greatly endeared to because they volunteered. Now that wasn't going to completely shield me from being called on, but it made things a lot better. Alan Morrison, he's a fairly prominent public interest attorney in Washington, he was in this section. David Rosenbloom was in it, he's a prominent tax lawyer here in Washington, I think Justice Souter was in my section first year. Although I don't recall that he did a lot of talking. But there were about, you know, 8 to 10 people who were always volunteering and would carry on a dialogue every minute that dialogue continued was a minute the professor couldn't be looking down at his chart to say, Mr. Armstrong are you here today? They were large classes and I really didn't get to know the professors very well. Some students were much better about maybe signing on with a research assignment or they're getting, doing some kind of maybe work outside the classroom to actually know the professor on a personal basis. I was not one of those. Charlie Fried was my Criminal Law professor. He was a fairly young professor. And, we used to have criminal law class meet, in those days they had law, they had classes on Saturday, so my Criminal Law class, I think we met 11:00 or 12:00 on Friday and Saturday. And it was Professor Fried and he was one of the more terrorizing professors for a first-year student. And, I remember on Fridays he would be just absolutely a holy terror. He scared people like me to death. On Saturday at noon there would be, especially during football season in the fall, a lot of people would have their dates sit back in the gallery and I began to notice there was a real pattern that on Saturday he was Dr. Jekyll and not Mr. Hyde. Saturday he would, he would kind of pull together the week's notes and pulled together everything that sort

of been left hanging on Friday. And he was very much more civilized in general when he would call on people. So it was a joy to go his class on Saturdays and not a joy otherwise.

MR. SHELDON: And was it all the true Socratic method?

MR. ARMSTRONG: It was very, very much, absolutely.

MR. SHELDON: Did you have to stand when you were called upon?

MR. ARMSTRONG: I didn't, I don't think we had to stand up. If you were called upon, I think you just simply had to be prepared for it. I remember that my first class was Contracts and Clark Byse was the teacher. But, whoever it was, he called upon for the first question, *Hawkins v. McGee*, the hairy hand case, I guess consequential damages was the case he asked about. The first thing you're going to say when you get called no matter who you are, you're going to preface your answer with "Well," everybody is going to do that, I know I would have, and naturally the first few comments were, "Well," and then an attempt to answer the question, and Professor Byse was waiting for that and so we had even before we got the answer we had about three or four minutes of you know, a tirade about don't say well, don't say well, but it was a terrorizing experience, it was.

MR. SHELDON: Any other reflections on Justice Souter?

MR. ARMSTRONG: I remember very distinctly the, knowing who he was when he was nominated to the Supreme Court. Even then there was a little bit of speculation, I guess even before he was on the bench at the Supreme Court when I read about the Attorney General of New Hampshire, I knew that was, that had to be the member of our class. I didn't, he was, he had studied I think in England and he graduated from Harvard as an undergraduate probably about two years before I graduated from Chapel Hill, so I think he is a little bit older. He seemed to go with a circle of people who sort of had similar backgrounds, they had Ivy League

undergraduate degrees, my recollection is that some of them obviously were more of his age group than they were mine. I didn't really know him on a personal level. Since he came to Washington, I have been included in a group of his classmates who have had dinner with him on a couple of occasions and we have had pleasant exchanges there. But I don't think he would have remembered me without that later introduction. I did remember who he was, but didn't deal with him. Larry Tribe was in the class, but I didn't know Larry either. He was not in our section first year, if I remember correctly, but he was in our class.

MR. SHELDON: Was it a competitive environment there?

MR. ARMSTRONG: Very much so. I remember—that might have been one of the things that contributed to the fact that I was worn out at the end of the year, because everybody perceived it as competitive. You didn't—and you didn't take exams, you see, until the end of the year. You took a practice exam once, if I remember correctly, at the end of January there was a practice exam in which each of the classes that you were required to take, I think you picked one question on the exam. So there was a three-hour practice exam, five questions, but it didn't count. So the real—your fate was determined by one set of exams at the end of the first year of law school. The door to work at a big city law firm was opened for me, and it would have been closed if I hadn't had the satisfactory grades, on the basis of the five, I think, was six exams in first year law school, based on a whole year of work—we had one course we began in January, so one exam was based on one semester. Five exams were based on the whole body of work for one year. And it was really—I don't think the people at Chadbourne ever saw my transcript, except for those first-year grades. So, and there used to be, you know, stories that go around: you know, you'd better get to the library and read this case first, because you may see when you get there that the case may have been cut out with a razor-blade. And, of course, the Dean—

Dean Griswold, who was not a teddy-bear-type figure, he was a fairly intimidating figure—he would tell everybody at the opening lecture that, you know, there would have been a time when I would have been making this speech and I would have told you, “Look to your right, look to your left: only one of you will be here at the end.” But he said, we don’t say that anymore because we figure you’ll all be here at the end because we’ve weeded you out much more carefully than before in the selection process. But yet there was an atmosphere of—I thought I had a little bit of a diversion in a small group of friends where we did things together. One of the fellows was from Maine, so during break periods when the weather was supposedly warmer we would go up to his rustic place on an island in Casco Bay near Portland . Fortunately, my best year, academically, was the first year. And then I looked a lot healthier, but my grades fell off markedly second year, and I think I came back up a little bit third year. I have no idea where I ultimately ended up, because—but I was certainly not anywhere close to a law review or one of the top student advisors.

MR. SHELDON: What was the application process like when you were going into your second year and you knew you were interested in private employers?

MR. ARMSTRONG: You did a bunch—the firms came to the school to interview for summer associate positions after the second year. As I said earlier, I think—it’s much more organized today, that people work in a law firm after their first year. Not so in our time. Whatever you did after first year—there was no effort, no organized effort, to place people in law firms. Back in Tennessee because of the personal relationship with that attorney, I had a chance to go up and have a little time learning what a title search was like. But second year was different. Everybody understood when you showed up the fall of the second year that you were expected to probably have a position as a summer associate somewhere and do some kind of

work in a law firm after your second year. And all of the firms, a lot of the big—I mean, the big firms in New York, the big firms in Boston and probably D.C.—but they sent partners up to interview. And I'm thinking that the focus of those interviews was really more on getting summer associates for the second year, as opposed to getting offers for permanent positions, too. Because the drill was that, I think, as it worked out to be in my case, that, I think, you get a big pool of summer associates and then you would make your offers for permanent associates to the people that had been, with some exceptions, there. But, the big firms came up there, and I probably had maybe three or four interviews. And there was a partner from Chadbourne who was there, and after Christmas I think there was a letter.

MR. SHELDON: What was it like with your small-town southern background going to a white-shoe New York law firm?

MR. ARMSTRONG: Well, I suspect there probably were other people whose experiences were not that dissimilar to mine. I don't remember, in my class of summer associates, exactly where everybody came from, but I don't remember that I felt like I stood out markedly from them. And I don't—I didn't really, on a personal level, know the partners that well. So that they knew that I was from the South, undoubtedly they knew they'd never heard of Rogersville, Tennessee, so I'm sure they knew that well we're dealing here with somebody with a small-town background. But on the resume, you know, the University of North Carolina, Harvard Law School, so, they didn't have any particular reason to say, you know, "better be careful, cause, you know, he's small-town."

MR. ARMSTRONG: I do remember, I guess, maybe one little revealing incident that showed I was something of a hayseed. We were going to the firm's summer outing which was up in Greenwich, and I remember that we were in a big car heading up the East River Drive, and

there was a very nice older partner in the car. And I was , I guess, wide-eyed or something, and I've forgotten what I said. Somebody said something about how we were going to get up there, and I referred to the East River Drive as the Franklin D. I think—I don't think I said "FDR Drive," I think I probably said "the Franklin D. Roosevelt Drive," because that was the formal name. And he looked at me and said, "We just call that the East River Drive." (Laughter.)

MR. SHELDON: And were you paid there?

MR. ARMSTRONG: We were—I do not remember the amount, but that was my first real significant paycheck. We were there for 10 weeks, and we were paid a weekly stipend. And they didn't—I don't think they paid maybe quite as much as some of the competitive law firms do these days in trying to attract associates, but we did some organized events, we had the advantage of being in New York, and the firm had a box at Yankee Stadium, we got to see some baseball games.

MR. SHELDON: How were the hours?

MR. ARMSTRONG: I was able pretty much to do it on a normal-hour basis, the weekends were generally free. And the big, Chadbourne's firm—the big clients were, TWA was a client, the American Tobacco Company was a client, I think Sperry Rand, which I believe was a defense—or North American—one of the defense contractors was a client. And they gave the summer people—they tried to give you a chance to work with a number of different partners, and you did a few litigation memos for the partner and maybe a discovery issue, something like that. I was sent, I remember, to a bankruptcy hearing out on Long Island, just to basically take notes and come back and report to the partner what had happened.

MR. SHELDON: Was it a formal environment?

MR. ARMSTRONG: Yup. Very much so. You mentioned yesterday as Casual Friday: there was no Casual Friday. In fact, you would wear a necktie, you couldn't wear a sports coat, you wore a suit. So I had to scurry around when I was going to go up there. It was a very formal environment. A few chances to—a group would get a chance to go out to lunch at one of the eating clubs sometimes that are on Wall Street.

MR. SHELDON: When you went back to Harvard for your third year, I take it the pace slackened from your first two years?

MR. ARMSTRONG: The great—the second year had been a much more enjoyable experience. I did not think my second-year exam grades were going to be that different from my first, and I remember the one shock I got at Chadbourne was— you didn't get your grades in those days until probably about six weeks after the exams were over, and so in the middle of July you're getting the exam grades. And we had a—second year, if I remember correctly, we had one or two courses, maybe, where we had taken an exam in January, but again, it was this—you go straight through again, and I didn't think I'd done markedly worse or markedly better than I'd done after first year. Then the second-year grades came out, and I had a significant drop off. But I remember I was feeling much better that summer, and people back home would see me and they would say, "Gee, you look rested, you look better, I haven't seen you looking this good in a long time!" I'd seen them before I went to Chadbourne to start working after school. So, I had a much more enjoyable experience in second year and third year. Obviously there was a little more of a concern third year because we were in a military situation in Vietnam and our class knew that this figured heavily in planning future careers. The buildup had begun the summer of the second year, so you had that on your mind, and that was sort of worrying your classmates and worrying you, but it was—in terms of—. I was on Moot Court team and we were fortunate

enough to advance first to the semi-finals, and then to the finals so that took up a fair amount of time. But academically, I was in a seminar on the FCC which was conducted by Professor Jaffe who was known in administrative law circles. And he was very understanding, he knew I had a moot court commitment and he was very understanding. I remember I didn't really have to—I was given an extension to get my seminar paper in to him, and the paper was on an obscure issue in the Communications Act, and I didn't really get started on that until about the middle of April after the moot court work was done. And I remember taking it to him in probably the middle of May, when we were starting our final exams. So there was a little bit of stress right there at the end, from April to the end, but it was—the classroom environment was very nice.

MR. SHELDON: What was the cost of Harvard in those days?

MR. ARMSTRONG: You know, I'm ashamed to tell you I don't know. I was one of those fortunate ones where my father took care of it. I was not expected to have a job, I wasn't expected to come up with the money, and I honestly don't know.

MR. SHELDON: Have you kept up with any of your fellow moot court participants?

MR. ARMSTRONG: I have. There were eight of us who were on our team. One of them lives in D.C.—two of them live in D.C., I think. One of them came to D.C. She was Barbara Jacobs at the time I was in law school and she later was Barbara Jacobs Rothstein and she was a Federal Judge in Seattle, I think, for a long time, before she moved back to Washington. At one of these dinners we had, with Justice Souter, Barbara was there and there was another one of the eight who is in D.C. and he is a neighbor of one of the people I used to work with at the FCC so I keep up with him a little bit. One of the members was really responsible for my coming to Washington to work in the Justice Department and ultimately

accompanied me to the FCC when we left the FBI. He's on the West Coast now and I saw him a few years ago. So about half and half, we've sort of seen each other since then.

MR. SHELDON: What was the name of the individual who you worked with at the Justice Department?

MR. ARMSTRONG: David Kinley. I'm trying to remember, I'm not quite sure what David did from '66 until '68, but in the '68 Presidential campaign he was working with a fellow named Bob Finch. Finch, who had been a long-time Nixon associate prior to becoming the Lieutenant Governor of California. David came to Washington after the Nixon administration took office and he was working on Finch's staff at the Department of HEW.

A person with whom David worked in the first year of the Nixon administration, Patrick Gray, became the Assistant Attorney General for the Civil Division in 1971. David accompanied him to the Justice Department. And David and I had kept up a little bit in the three years since we'd been in law school. He knew I was in the Navy, and about the time I was getting out of the Navy David was in touch with me but nothing much was said. I indicated to him that I wanted to give a try at being an AUSA in Brooklyn and that I was enjoying it and I was happy and I liked it-wasn't asking to do anything else. But thanks to David, I nevertheless got a chance to come down here and interview for a position on Mr. Gray's staff in the Civil Division. Mr. Gray wouldn't have just like gone looking in Brooklyn for an assistant district attorney to put on his staff if David hadn't put the bug in his ear. So that was a difficult decision about whether or not to accept, because I liked it in Brooklyn. I was beginning to get the trial experience that I had sort of chafed and wanted when I was finishing up military duty. The biggest reason that I resisted going back to Chadbourne and opted for the U.S. Attorney's Office was that I thought it would give me a chance to have more hands-on experience early on as opposed to just being

somebody who carried a partner's briefcase into the courtroom. I'd actually be in the courtroom, be able to do something. And I was, those expectations were coming true. I was really happy. I was liking that work and I didn't know whether I wanted to come down here to the Justice Department and switch from Criminal to Civil. Ultimately, some of my really good friends up in Brooklyn, one of whom later went on to become a very successful District Judge up there, now a Senior Judge. I remember he said, you know you really, you've got an opportunity-go work on the staff of the Assistant Attorney General. Now you are a very good friend in this office, we don't want to get rid of you. But he urged me not to pass on the opportunity that had been given me in Washington.

MR. SHELDON: Going back briefly, tell us about your time in the military.

MR. ARMSTRONG: Well, back up a little bit. The training of the Navy, in those days, people who were lucky enough to get direct commissions as a lieutenant junior grade, you got nine weeks of training at the-what they called the Naval Indoctrination School. Perhaps an unfortunate name, but what it really was, it was in Newport, that's where the officer candidate school was and it was an abbreviated version of Officer Candidate School. And it was for people who were going to be attorneys. Then after you did those nine weeks, you did seven weeks at the Naval Justice School, where they gave you training in evidence and procedure and the substantive Uniform Code of Military Justice. And the idea was most of us were going to go out, either to ships or into shore stations and practice military law. After Justice School, I was sent to the destroyer group there in Newport for about two months to be a young lawyer-you get some court-martials, and did a lot of legal assistance work for the families of the sailors, some of whom were in Vietnam or elsewhere and they ended up coming to shore duty in Newport. But I did that for two months and then I came back to the Naval Justice School as an instructor. As I

said earlier, there were sort of three core courses there: evidence, procedure, and criminal law, where you learn the substantive criminal provision in the UCMJ. Naval Justice School, in those days, in addition to having people like myself who were attorneys, and who were directly commissioned as attorneys, you also had in the navy, they sent a lot of people to the Justice School who were not attorneys, but who were going on a ship. They were going to perform sort of the duties of an attorney: they would advise the commanding officer about if he wanted to have Captain's Mast. Rudimentary evidentiary procedural requirements that you have to follow. But, so a lot of ships' legal officers were not lawyers, but they had been trained for about seven weeks in Legal Justice School, and had been trained by people who were lawyers. So, my duty for most of the three years, was doing that. But, in the last year I was there, which was the summer of '69, the commanding officer said, I'm going to put you on a detail to the Pentagon, the Law of the Sea people. The North Koreans had recently captured the Pueblo, a Navy ship. This was about the end of the-I guess this was in early '68. My commanding officer said there would likely be a court-martial, apparently, once they ultimately got the commanding officer back. He was going to be court-martialed because some were concerned that he had not followed the proper procedure during the episode. The Navy JAG attorneys who worked on law of the sea matters in Washington were tied up with this upcoming court-martial. And they need, there's a big principle in the Navy to try to preserve freedom of the seas and you did not want international waters to have a toll charge to transit them. There was some concern that Indonesia and Singapore and Malaysia, I think the countries that were close to the Strait of Malacca where navigational improvements needed to be made would try to pay for these improvements with a toll charge on ships using the Strait of Malacca. And this was a great concern to the Navy which wanted somebody to join a group to work on the issue - there was an economist from D.C. and

there was a member of Coast Guard and they were going to send a study group over there-report back to Washington about, you know, what was going on, what might be done, what the Navy could do to take care of the problem. And, just by default, my commanding officer at the Justice School said here's an opportunity for you to see the world for about six weeks and you know, offering you the chance to do it. So I came to Washington and a little bit of a crash course started to learn principles concerning the law of the Sea and then we spent about two months, partly in Washington, and partly in Singapore, in Malaysia, Japan and other places like this where I really did get to see the world. It was a nice experience. But then I went back for about three months to Newport, and that's where I finished my three years and headed off to Brooklyn.

MR. SHELDON: Did you travel on a military ship or was it commercial airlines?

MR. ARMSTRONG: If I remember correctly, we were using mostly commercial airlines. We were not on a military ship or anything. Our first stop, first stop was in Tokyo. I remember when I got to the hotel I was totally exhausted with the date line and everything else and we were just about ready to begin what I hoped would be many hours of sleep and I remember hearing the news on the radio that Warren Burger had been nominated to be the Chief Justice of the U.S. Supreme Court.

MR. SHELDON: Do you remember what the ultimate result was from your study?

Mr. Armstrong : You know, I do not know. That's a very good question. I remember turning in a report on our trip. I wasn't, we weren't tasked with making a lot of recommendations, if I remember correctly. It was more we spent a lot of time just chatting with people in Japan, people in Singapore, in Malaysia and in Indonesia. And it was more just a fact-finding report back. I don't still have the paper that I gave the JAG Captain at the Pentagon in charge of Law of the Sea matters. And that's a very good question and I'm hoping that maybe

I'll still, sometime if I see a Navy person I can find it. I hope it wasn't one of these things that just got put in the file cabinet and was never seen again. But at least whatever happened, I had a chance to see the world.

MR. SHELDON: Before we move on to your work in the Federal Government, let's go back briefly to Harvard,. You mentioned a female classmate. Was it an integrated environment there as far as women?

MR. ARMSTRONG: I believe that's a very huge generational difference. I think I remember hearing that our freshman class which was probably 500, roughly 500 people, I think we had like four 125-person sections. That we had about 5% women. It was no more than that. There were a few, if I remember correctly, who did not stay all three years. I think there were a couple, I'm not going to make a sexist remark here, I guess there was probably some of the male students too, but I think marriage probably made some people drop out. Not a lot, but a few. There was like 5%, there were very few. The ones that were in your class, I think, I can remember maybe out of 125 total in the class, probably between 5 and 10 women.

MR. SHELDON: Do you remember it being difficult for women in the job market more so than men?

MR. ARMSTRONG: Didn't know that many then. I knew Barbara Jacobs well, but that was a little later, second or third year. Didn't really have first-hand evidence that the women students were not going through the same process that I was going through to find a place to work after the second year.

MR. SHELDON: Were there any minorities in your class?

MR. ARMSTRONG: I really don't, I can distinctly remember women in the class in my section in the first year. I cannot recall minorities. I wouldn't want to say there weren't. But I just really can't recall them. I need the yearbook to refresh my memory.

MR. SHELDON: So let's go back to your decision to go down to DC. And what was the position that you accepted there?

MR. ARMSTRONG: David Kinley and another attorney, Barbara Herwig, and I were personal assistants to the Assistant Attorney General, L. Patrick Gray III. And David was at a slightly elevated position. When he came over with Mr. Gray from H.E.W. he really came as, I guess you would say, the—I've forgotten his formal title, but he was essentially an Executive Assistant. He was clearly the first among equals. Barbara and I were on the personal staff but we functioned more like attorneys who were regularly assigned to the Civil Division.

But that created a little bit of tension for me in that I was only there one year before we went to the FBI and the one year in the Civil Division was not the happiest of years for me, because I didn't sense that everyone was on the same page when it came to my role. I was on the staff of the Assistant Attorney General and it looked to the career attorneys and their supervisors that I was in a policy position in which someone who had been politically vetted had been offered that position and was thus to be treated as a political person. Mr. Gray, on the other hand, probably thought of me as coming down here to be very much an attorney. He assumed from my background in the U.S. Attorney's Office that that's what I wanted to do, be a practicing lawyer and he thought that, you know, he was in a position to give me a real chance to continue my legal development, this time switching, from criminal which I'd done in Brooklyn, to civil. And he didn't have a hands-on experience—following of everything I was doing but I think that's what he thought I was doing. On the other hand, I think the career people in the

Civil Division, they look at somebody in my circumstances coming down here from U.S. Attorney's Office as a special assistant to the politically appointed Assistant Attorney General and they probably felt that I was primarily an aide to the Assistant Attorney General and was really not somebody that was to be given the ordinary assignments of people in the Civil Division.

I had a chance to work with one of the Senior Litigators, a gentleman whose last name was Goldbloom, who was a terrific lawyer, and he was involved, I remember, in an environmental lawsuit involving the Tennessee Tombigbee waterway project which was one of the very early cases in which NEPA was beginning to come into play. Did the Army Corps of Engineers comply with NEPA in connection with a project designed to shorten the travel down the Mississippi River to New Orleans? So, I was nominally assigned to some very interesting cases and there was some Vietnam cases coming up and at this point very much so the demonstration cases—sleeping in the park—Lafayette Park, elsewhere. So there was a lot of very interesting litigation there and senior people who were working on it, I was reporting directly to them, working with them.

So, if you just looked at it from an outside perspective, it would look like I was having some nice legal assignments and was able to do all of those. The only real thing we did directly in our capacities as members of Mr. Gray's personal staff would be, we would usually, the three of us, David, Barbara and I, would join at least one career lawyer and another senior political attorney and we would usually sit down and meet every afternoon at five o'clock with the Assistant Attorney General to go over the division's business. So, in that sense of a way, we were wearing our hat as a person with privileged access to the front office, the rest of the day we were off being lawyers. I think it probably worked pretty well, maybe for Barbara. David was

always just clearly getting his assignments directly from Pat Gray. But for me it was a little bit ambivalent but that's basically what we did. Two unforeseen events occurred shortly after I had begun this particular job in July 1971. I'd been in Brooklyn. I got out of the Navy in March of '70, worked in the U.S. Attorney's Office until, for about 15 months; showed up in the D.C. area in... I think it was almost the last day of June of '71.

In, let's see, in February of '72, after I had been down here about six or seven months, John Mitchell was going to leave being the Attorney General to go run Nixon's re-election campaign.

MR. SHELDON: That's an interesting shift.

MR. ARMSTRONG: Indeed. And one that was to have many repercussions. Richard Kleindienst was the Deputy Attorney General, and he was nominated to succeed Mitchell as the Attorney General. Now Patrick Gray from Civil Division was going to be promoted to take Kleindienst's position, as the deputy. So, starting about February of '72, the prospect immediately arose of confirmation hearings in the early part of an election year before the Judiciary Committee. Senator Eastland wasn't going to be a problem, but Senator Kennedy, Senator Hart, Senator Tunney; there were lots of people who were certainly just waiting to, you know, have a difficult hearing for the Nixon administration at the beginning of the '72 campaign. So, it looked like it was going to be a difficult confirmation hearing for Kleindienst and as a subsidiary matter, it was going to be difficult for Gray as well. Immediately everybody's attention on his personal staff turned towards trying to get ready for the confirmation hearings.

And then, about that time, one of these early pre-*Watergate* bombshells hit. There was the big story by Jack Anderson. He found a memorandum that was apparently written by a lobbyist for ITT. Her name was Dita Beard—the Dita Beard memorandum. The essence of this

memo was cited, and for an apparently plausible reason by Anderson, as establishing that her company, ITT, had, in some way, made an important contribution to the Nixon administration or an important contribution to the Republican National Committee to/in connection with the plans to hold the '72 Republican Convention in San Diego. The contribution was allegedly in return for settling a pending antitrust act against ITT.

MR. SHELDON: And by contribution, you mean a monetary amount?

MR. ARMSTRONG: I think it was \$400,000. That's the figure that sticks in my mind, which in those days, I guess, was considered to be a big... but the idea was, but there was the quid pro quo, an alleged quid pro quo. The, there had been an antitrust suit against ITT and it was settled, on terms that were... it was either ... it may have been an outright dismissal, I can't recall it's either an outright dismissal, which we later learned apparently had directly involved the President directing the Assistant Attorney General to drop the suit. It had been either outright dismissed or it had been settled, on terms that were, you know, considered favorable to ITT. And there was this story running around about this big contribution to the Republicans to facilitate the San Diego Convention. So, this provoked the expected sort of political uproar. It was kind of a preview of coming attractions that was going to happen.

Therefore, if I remember correctly, they put on hold the completion of the confirmation hearing for Kleindienst and reopened the record to call Kleindienst back to, because he had been a player as the Deputy Attorney General, he had been somewhat of a player, I think, at the time, in various stages of the antitrust suit against ITT. So there was, he was called back to be grilled about what he knew and what he didn't know.

Apparently it was also, I had forgotten all of this, but it's coming back, because I have been rereading for another interview, some of the history of this time. But some of the crowd

that later got involved with *Watergate*. Maybe Howard Hunt and Gordon Liddy were some major players when *Watergate* broke. Somebody tried to track down Dita Beard, who was the lobbyist who had written this explosive memo and, allegedly, she had confessed that the memo was not authentic. In any event, it was a major political firestorm, which put everybody in limbo and it came to the end of April or early May of '72, and J. Edgar Hoover died.

And that was six months before the election. Hoover died. I had no idea that my then boss in the Civil Division, Patrick Gray, might be a candidate to take the FBI position. Subsequently read various things about what was going on prior to that, which probably, had I known it at the time, I would've understood this was always something that was in the back of Gray's mind, that this was a possibility of something he might be doing. But I didn't know that, just on the basis of any of my dealings with him during the year I had been on his staff. So, this was, Hoover died on like a Monday night and I guess Wednesday afternoon, happened some friends of mine from the U.S. Attorney's Office in Brooklyn happened to be in D.C. that day. One of them came by, made a social call to me and in my office at the department and while he was there word started coming down the hall that the President has nominated Gray to be Hoover's successor.

I was thrilled about this at the time, because I loved my criminal work, which involved a lot of work with the FBI when I was in Brooklyn. As I indicated earlier, I had been a little bit pulled between, didn't quite know my role, was having a little bit of an identity crisis in the Civil Division and was not getting the professional fulfillment and satisfaction that I had been getting when I was in the U.S. Attorney's Office.

But I thought, this will be a great, great experience if I get an opportunity to work with the FBI, because I'll be getting back into the criminal area; be getting back into dealing with

people that I worked with in Brooklyn. So this is like salvation for me to get out of the Civil Division and go to the Bureau. And I thought we would have a chance to go. He was going to probably take the staff that had been with him in the Civil Division; and he did. So that's when we moved up to the Bureau.

MR. SHELDON: And prior to that time, when you were still working in the Department of Justice, did you get a sense of policy directives from the Nixon administration, as far as what cases you should pursue or how you should pursue certain cases?

MR. ARMSTRONG: Obviously I know there was some of that going on, particularly with regard to the antitrust division and the ITT case. I also know that friends of mine who, some of whom – Bob Kopp who was a classmate of mine – Bob is still over there, I think whom I'd known in law school who were career attorneys in the Civil Division. They told me when I first got down here, they said one of the things we like the most about your new boss and our boss, Gray, he was pretty well thought of by the career staff. They said we like him a lot because he seems to be a stand up guy and the episode that they cited to show that he was a standup guy clearly implicated political directives from higher-ups because he had, they had gotten an injunction. The Civil Division had been responsible for getting an injunction, I think against allowing the demonstrators to camp out overnight. It was either on the Mall or it was in Lafayette Park, across from the White House. But in any event, they had gotten an injunction against the overnight sleepers. Sort of déjà vu on this stuff you read about what's going on in New York right now. And then there was a little bit of a political firestorm, I guess, which the injunction created from people who were sympathetic to the demonstrators.

For whatever reason, apparently, the political people in the White House decided that they did not want to enforce that injunction. So, our classmates said, the thing about your boss

that was appealing occurred when he was the official from the department who went before—I think it was District Judge Hart—went before the Judge who had been persuaded to grant the injunction and basically tried to get the injunction withdrawn. In some way, a court appearance was going to be necessary in order to go on the record that the injunction was not going to be enforced. And Bob said, your boss went up there and the anticipated angry reaction from the court did in fact materialize and he took it. Bob Kopp said, we all knew that somebody was going to have to take it and he took it.

MR. SHELDON: So he appeared in court himself?

MR. ARMSTRONG: He appeared in court and he's the one who got lectured to, I think, by Judge Hart.

MR. SHELDON: And was it particularly unusual for an attorney in his position to do that?

MR. ARMSTRONG: I think that, I don't think the Assistant Attorney General—it's not unheard of, but it didn't happen all that much. It was enough of a, it made an impression on some of the career people in the Civil Division that under these circumstances he did it.

But, the larger point, the reason I mention that little episode...this all happened about, probably two months before—about the time I was deciding to come to join the Civil Division. But it was about two months before I in fact wrapped up my duties in Brooklyn and in fact came down. So this happened, I remember reading about it in the paper at the time, Assistant Attorney General Gray had appeared before Judge Hart concerning the enforcement of this injunction.

I mentioned that because you asked, did I have a sense that there was a lot of political directives. At that time, I was wet behind the ears in D.C. experience. If you ask me that question today, I would say it's just sort, in my mind, it's just sort of assumed that political

people with appointed positions at the Justice Department will be in touch with the White House. Political people appointed to be Chairman of the FCC would be in touch with the White House. Make sure they're always on the same page. But I didn't really, at that time, necessarily think that the department might conceivably run differently for a Republican administration than it had under a Democratic administration. I've told some of my friends about one episode in which I was personally involved where I never got in trouble but I should've made it known I was being asked to do something I shouldn't have been asked to do. One of the few direct assignments I got from Assistant Attorney General Gray was, at the time of this firestorm on the Dita Beard memorandum. The reaction, apparently, from the administration was to move the convention to Miami. It was to be in San Diego; it was going to be moved back to Miami. That's where the Democrats were having their convention that year and that's where the Republicans had held their convention in '68 when Nixon was first nominated to run against Humphrey.

So, they moved it back to Miami. I've forgotten exactly what was said, but one of the things that I think they were a little bit concerned about was whether or not moving the convention would trigger difficulties for the President to get his name on the ballot in some states as the Republican Party's nominee and I remember, I thought the world of Pat Gray; as I'll come to later when we talk about the FBI. I think he was a very decent person who happened to be in the wrong place at the wrong time and suffered badly for it.

But he was a political appointee and gave me one assignment which I accepted without question, even though it does not seem to be one for the Civil Division to handle. But, in any event, I was a special assistant to a political appointee. And he said, one morning, that he would like me to go to the White House and there was a collection of state election laws that were up there in the Office of the Counsel to the President and they were all collected in one place.

Would I go up there and come back and report to him about the requirements for getting on the ballot, in all of the 50 states, if you were the Presidential Nominee. And I think they were probably concerned that moving the site of the convention at such a late hour might create ballot access problems.

Now, why, you know, the Assistant Attorney General was worried about that, as opposed to the General Counsel to the Republican National Committee, is now a question that I've come to think about as something that maybe I should've asked about.

But I went to the Office of the Counsel for about two hours. The then White House Counsel was John Dean. And he showed me into this room, and I spent two or three hours making my notes on what the election laws were and took it back, you know, gave them to Mr. Gray. I have no idea, this is like that memo in the Navy on issue of a toll charge for ships passing through the Strait of Malacca, what, if anything happened to those notes.

But I mention that, simply because, I certainly knew there was an interaction between political appointees in the department and the White House. I couldn't say I didn't.

MR. SHELDON: Obviously your perception may have changed over time, but at the time, when you were kind of a model young Republican, what were your thoughts about joining the Nixon administration?

MR. ARMSTRONG: Well, I, at the time, I certainly realized, after I got to the U.S. Attorney's Office, that a professionally run U.S. Attorney's Office is going to have a lot of people in it who are thoroughly loyal to their work but on election day, they're not going to vote for the administration that is now their boss. I came to appreciate that. And I know there were a whole bunch of people in Brooklyn, some of whom were attorneys, most of whom I think, were probably the support staff that worked in the office that even lived in Brooklyn. A good number

of them, if I remember correctly, were black. I had a very nice personal relationship with them. And I remember some people telling me, who were in the office a lot longer than I had been, is that you know the funny thing about this position is, everybody in this office probably, or the overwhelming majority people of this office—when they vote, they vote Democratic, out of the Brooklyn area. They live in this area, that's where their views are formed. But the ones that were really concerned with the office felt, or so I was led to think, the office runs more professionally and less like a political patronage shop when a Wall Street Republican is the U.S. Attorney. So the people are sort of split, they like the way the office runs better when the Republicans are in power, but as Democrats, they don't vote that way.

But, at the time I entered government, when I got out of the military, I just assumed that, since I'd been identified with the Republican Club in law school and the young Republicans in college, it probably wouldn't have occurred to me to try to get a job in the U.S. Attorney's Office if we had not had a Republican administration. It was the combination of, he's a Republican and he's a litigator whom I had known at Chadbourne. Those were the two drawing cards that gave me the gumption to seek to be employed by the administration. And, at the time, this was being, this was occurring in the fall of '69. I was getting out of the Navy, early '70, so all this was occurring in the fall of '69. You were just beginning to have an end of the honeymoon for Nixon. You were just beginning to have some stirrings of trouble. The silent majority speech, if I'm not mistaken, was about November of '69, which was just about the same time that I was beginning to think about going into the government.

Even if I had had no Republican leanings, there was nothing really, at that point, that would have probably concerned me about the Nixon administration. We'd known Nixon, we'd

met him back at law school. He'd been one of these lawyers who came to Cambridge to interview for his law firm and he had met with the Republican Club when he was up there.

He was with Nixon Mudge, firm was called Nixon Mudge and it gets a little bit, even a little bit closer than that. After he had met with the Republicans from the business school and from the law school, he invited a group from the club to come have dinner with him in New York. He lived near Central Park, when he was working in New York. So we had probably about five or six hours of dinner and conversation with him in his own place, overlooking Central Park.

I've subsequently read later that this was one of the things he did when he was in the wilderness between political offices and he was clearly planning to run for President in '68. This was all occurring around '66. He did a number of these things. Our group was not unique to that. There was no lasting contact with him. He wouldn't have known who I was if I'd passed him on the street, outside his law firm. But the combination of several pleasant personal encounters with him and my National Republican leanings meant that I didn't have a second thought about joining the government during the Nixon administration.

MR. SHELDON: What was your impression from that experience?

MR. ARMSTRONG: Very, very favorable reactions. All of the subsequent stuff that came out about, you know, he was money obsessed. He spent all this money on the refinements of San Clemente and hadn't... and the various things that were on the tapes. It was, you know, I guess we'd all just been very, very naïve, but I thought, this is the model. Here's someone who could make any amount of money in the world he wants to make as a partner in a Wall Street law firm but he's more interested in; he's not money driven, he's more interested in, you know, doing something in the public sector. And I had not, I guess, perhaps, because of partisan

Republican leanings from going up in Tennessee, I had never particularly been sympathetic to my Democratic friends who hated Nixon. So, it was fine.

MR. SHELDON: And then, so let's fast forward again and talk about when you heard that you were going to be brought on to the FBI. What did you think your role was going to be there?

MR. ARMSTRONG: Well, one of the things that was very reassuring to me about the prospect of the FBI career occurred while I was still in the Civil Division when there was about a period of a week or so between the time that they announced that Gray was going to the Bureau before he actually went up there. And I don't think that he had even formally, at this point, made it clear that I would have an offer to go with him.

But I got some calls in the Civil Division from FBI Agents and they were asking me, they had just read in the paper that this man was going to be their new Director, Acting Director. And they knew I, they had known me in Brooklyn. They knew I had left the U.S. Attorney's Office to come down here and work for him. So they were calling me up and they were asking me, what about it? And, in the course of those conversations, they made clear that they were encouraged by the appointment and hoped I would go to the FBI with Pat Gray. The gist of what they were saying was, a lot of the people who either presently are street agents, what they call brick agents, have always chafed because of the rigid hierarchy ruling over the Bureau. And a lot of the old guard has captured all of the positions and were working close to the Acting Director's office and the only thing that gets through to the Acting, to the Director's office, is what the old guard wants the Director to know. If you're up there on the staff, you have direct access to the Acting Director. You know, we would love, we would hope that you can be a

breath of fresh air and you can be a conduit to make sure that he gets things that are percolating down in the lower ranks of the Bureau that he would never know about.

In addition to myself having access to the Acting Director of the FBI, I saw the chance to really do something for the people I think very highly of who are in the lower ranks of the Bureau, with whom I had such a good relationship when I was in Brooklyn. I will have the chance actually to do something that's really constructive to making this a better organization. I can be a part of a really good effort and there is a real good reason for my existence and there is a real good reason for me to go up there if I get a chance, so I was very happy about it and it did work out.

There were after-hours sessions with agent, including some with whom I had a direct contact while prosecuting in Brooklyn and who subsequently had transferred to FBI headquarters. I was a bachelor and they often invited me to dinner in their homes where I was well fed. They said we need to be discreet because if the old guard knows that we are friendly with someone in the Acting Director's office, this will create an awful lot of problems for us because they would be very upset about that. So we need to do this in a very discreet way. So basically, I would enjoy meals at their houses or go up to the Old Ebbitt Grill or somewhere for dinner.

But in any event, I would get a lot of information. Not enough emphasis on organized crime. Too much emphasis on automobile thefts across interstate lines. I would be told, This person is a really good person and let's get him on the fast track to try to get him promoted. And, this is a person that's, very calcified, very much old guard, this is a favorite of the people who will be recommending to the Director who should get this position in Memphis, or whatever. "This is really a much better person down there." To his great credit, Gray, I think,

expected that from me. He said that, one of my regular assignments from him, was to go with him every...he didn't go every week but, typically if he were not out making a speech or visiting a field office, he would go down to Quantico which is where the FBI Academy exists. That is where the agents get their training. He would go down to the academy on Thursdays. And so he said, "You're my...the person and member of my staff who is responsible for working with me on matters when I go to the training academy. And you will go with me on my trips down there and visit with the academy." An incidental benefit of having that assignment was, it takes 30 minutes to get to Quantico and 30 minutes to get back. And that's when I had the chance to tell him anything that I found worrisome, or that had been brought to my attention. I didn't have any way of knowing firsthand this stuff I was relaying to him, you know, hearsay stuff that I was getting from my agent friends in the ranks. He never discouraged me from raising these things with him and sometimes he would tell me to write a follow-up memo when we got back. Sometimes, I didn't know until his book came out where, you know, I didn't hear any more...if I remember about some matter I would raise with him. But he talked about one or two of these episodes in the book he wrote and so it was obvious that he was ready to listen to me about what was going on in the agency. And that was great and I didn't have, of course, I couldn't help the fact that *Watergate* came up and ultimately that is what did him in.

MR. SHELDON: What kind of matters did you work on at the FBI?

MR. ARMSTRONG: In terms of just being on my day job, so to speak, my regular job, it was a classic...there was no pretense here, as there had been in the Civil Division that I might actually get a chance during my tenure there to do litigation, court room stuff instead. I was a staff assistant. He told everybody and this was in light of his later troubles, this was sort of ironic. I remember one of the first things he said to David and Barbara and me when we met

with him, was “I’m looking to you people to keep me out of trouble.” He was nice enough to refer to us in those days as young people. “I consider you to be my eyes and ears and I also consider you to be ...” he didn’t use this term, but his body language was “I consider you to be a lot smarter than me and sort of really keep me out of trouble”. And earlier he had said to a larger group, which I think consisted not just of the three of us that would come with him from the Civil Division, but to the larger FBI family that had worked in the Directors’ office and who were still there after Hoover’s death. He said “I’m a military man, I come from a military background and we operate very much on a need-to-know basis. You stick to your assignments and you get the information you need to carry out your assignments, but you don’t worry about the other stuff that’s not on your particular plate.” Anyways, I had a lot of stuff with him I remember dealing with, I think, some of the National Security wiretaps. The Supreme Court had decided a case, just about the time we got there, called the *Keith* case, which basically said, you had to get a warrant to have a wiretap in domestic, as opposed to foreign intelligence cases...there was a big issue to try to get wiretaps for people for security reasons but not necessarily suspecting or planning to charge them with any kind of a criminal violation. And the Supreme Court settled it in the *Keith* case that unless there is a foreign intelligence aspect, if it’s just a domestic intelligence aspect you must have a warrant. So there was a need to develop a system for getting those warrants. And I remember, I would be responsible...I wouldn’t actually draw up the application for the warrant but it would get approved by him and then you would carry it down the hall back to the Attorney General’s Office to make sure it got regularly authorized before they did it. I said before that I worked directly with Pat Gray with him on matters involving the FBI Academy. I don’t remember a lot of things I did. Some of the time

during normal hours, I would have the time to put information that had been given to me in my role as a conduit into a memorandum to the Acting Director.

MR. SHELDON: In what office building were you in at the time?

MR. ARMSTRONG: We were in Main Justice. We were in the suite of offices that had been occupied by Hoover when he was there. The new building wasn't ready until we had left the Bureau. And our suite, the FBI Director's offices occupied about one-half of the corridor on the 5th floor along the 9th Street side. The other half of the corridor going all the way down to Constitution Avenue were the Solicitor General's offices.

And in fact, Barbara and I were in the last office in the Acting Director suite of offices. And we were adjacent to the office in which the now Judge Ray Randolph was located...he was on the staff of the Solicitor General. So his office was directly next to ours.

MR. SHELDON: And did you have any interaction with the Nixon White House while you were in the FBI?

MR. ARMSTRONG: I don't think...I went one time to pick up a document...I think I was able to piece together from some of these later books what the document might have been. But I know there was one time when the Acting Director called me and he said, "We need to pick up a memorandum from John Ehrlichman's office and I am going to send you up there to get it and bring it back from Senator Hruska's daughter, Janet Hruska. She is Ehrlichman's confidential assistant and she will give it to you." So I remember being driven up there and going into the...it's the only time I've ever been into the West Wing. And went into Ehrlichman's office somewhere up there and got this memorandum and took it back. But there was nothing like the...one experience I had in the Civil Division when I had gone to John Dean's office and sat there and read the law books, nothing like that. I do remember something that fits

with the tension I said a minute ago. You are working with somebody that you are supposed to keep out of trouble and then, at the same time, you are supposed to operate on a need-to-know basis. And the tension was manifested in the middle of *Watergate* when I saw John Dean, who by this time, I knew what he looked like. There was a very large waiting room which visitors enter when they come into the Director's suite of offices and Dean was sitting out there one day, probably the summer of 1972. I wasn't really happy to see him there. I thought that he could not possibly be up to any good if he is sitting out there. I have kicked myself many times: What would have happened if I had, *sua sponte* said something about this in one of the meetings David and Barbara and I had with the Acting Director. We would meet with him a couple of times a week, probably five o'clock in the afternoon in his office. This would usually just be David and Barbara and me. There were other meetings where we were present with him, but career Bureau people, including Mark Felt, Deep Throat, would also be there. I've wondered many times if I had said at one of these meetings, "Boss I know you told us to operate on a need-to-know basis and you haven't given me any assignment relating to this matter, but I don't know why I have seen John Dean waiting in your waiting room; please be careful." I wish I would have said that, but I didn't because he said need-to-know and I was inclined to do need-to-know. And I never got a lot of feedback from my agent friends about...complaining about *Watergate*. And in fact, in my mind, this proves that there has been a lot of unfair publicity about Gray in recent years. In particular, after Mark Felt was disclosed as Deep Throat about six or seven years ago. But apart from the stunning exception of allowing himself to take some clearly politically sensitive documents, not *Watergate* documents, but clearly politically sensitive documents from the White House people and destroying those documents, which is ultimately the reason he had to resign as Acting Director, the adverse publicity about Gray during *Watergate* was unfair. With that one

stunning exception, which nobody knew about until it blew up in the paper months later, I think the Bureau's investigation of *Watergate*, including Gray's involvement, was professional. There was a little bit of a delay to make sure that following the money tree in the early stages of the investigation would not have compromised the CIA and there was the famous effort, which is on the Nixon tapes, to try to get Gray to buy into that theory and call off the dogs. There was a slight delay during which he at least was allowing that argument to be made and his critics in the Bureau have seized on that delay as evidence of the fact that he was a tool of the White House. But, I think, and it was evidenced by the fact that I just really never... I would have heard things from my friends in the Bureau, and they were frank with me if they didn't like something ... and I just never heard of any indication that we're not being allowed to conduct the investigation the way it should be conducted. And I will always think that it might not have been quite as quick, and certainly wouldn't have been quite as spectacular, but if there had never been a Bob Woodward or a Carl Bernstein and there had never been a Deep Throat, I still think the professional agents would have ultimately gotten to the bottom of *Watergate*.

MR. SHELDON: What do you think the memo was that you went and picked up?

MR. ARMSTRONG: I'm going to have to go back and look at Gray's book and see what it was. I thought I knew at the time. I don't recall that it was anything that seemed terribly damaging on its face.

MR. SHELDON: Did you think it was odd that a senior advisor to the head of the FBI was being sent over to pick up a document from the White House?

MR. ARMSTRONG: I think this was probably; this was probably before the damaging evidence about the relations between the White House and the Bureau were coming out. I knew that Gray, I didn't like the fact that Dean was there in the office. But I didn't really realize that

Gray had had this much cooperation with Dean until his confirmation hearings in the spring of '73. I guess that having done some of these national security wiretaps, and taking them down to the Attorney General's office, I didn't, my antennae didn't get terribly raised when he said there's a sensitive document in Ehrlichman's office for you to pick up; at this point, Ehrlichman's reputation was not damaged; I wasn't terribly concerned when Gray said this is something that I would really like to entrust to one of my closest aides. It didn't really hit me that much, he just said, "Go get it."

MR. SHELDON: And, maybe this would be a good point for you to talk about your unfolding knowledge of the *Watergate* scandal.

MR. ARMSTRONG: Well, I certainly, I think from not wearing my FBI cap, not because of anything I knew in the FBI, but just being a citizen, I thought that almost from day one the White House reaction looked suspicious. I just couldn't believe that...

MR. SHELDON: And you're talking about the White House reaction to the initial story?

MR. ARMSTRONG: In June, right after the initial arrests, within a couple of days, it was common knowledge that some of the people that had been arrested had had ties to the Committee to Re-Elect the President. And I just, from day one, I thought this is not just a third-rate burglary. So I think I always thought we may very well be dealing with an administration here that's in big, big trouble. I think I...but that was not because of anything I knew at the FBI, that was just because of Mack Armstrong, citizen, just watching these people, looking at their demeanor etc. The one time Gray spoke with me directly about *Watergate* came at what I now realize, but didn't at the time, was a particularly sensitive point in the investigation. The incidents which were to cause Gray later trouble came within about the first two weeks after the

break-in. The first incident occurred when he had that meeting with the CIA Deputy Director, General Walters, who came over and said the White House thinks there's a CIA connection and they want you to hold off, and Gray did hold off for about two weeks before they followed the money trail which ultimately led clearly to the higher ups. The other incident, which was to become Gray's terrible problem, came about two weeks after the break in, when he got called to the White House and they said here is this stuff that's been taken from the safe of one of the arrestees and it's not related to *Watergate* but it is political dynamite and should never see the light of day. He took those documents and apparently, about six months later, in Connecticut, threw them in the fireplace. Those were the two really terribly compromising or potentially compromising things that happened to him. What I now realize was five days after he got those documents, nobody on his staff, nobody else knew about that, right about the Fourth of July was the one time he sua sponte raised *Watergate* with me. I think everybody else was gone that day. I was the only staff-person who was on duty, his secretary called me and she said that Mr. Gray would like you to be his guest today for lunch and he liked the Sans Souci, which is a restaurant up near, it used to be near the White House, but anyway – it was very much of a popular restaurant where a lot of the political people went. And I knew this was a restaurant he liked when he ate out, and he would have different people from time to time as his guests. The only time I ever went with him as a guest was on this occasion. At that lunch he began to talk about his various theories of *Watergate*, which was at that point about two weeks old. There had been, obviously, the two things mentioned above that I didn't know about. I also don't think I knew at the time about an angry confrontation with the agents, on a Saturday morning in his office, in which he accused them of being the source of some of the leaks and was really upset about it.

It's subsequently been written about, but he talked at our lunch about his theories of the investigation.

MR. SHELDON: Do you remember any of his theories?

MR. ARMSTRONG: This was still at the time in which the investigation of the money trail was on hold because of the concern it was going to lead back to some CIA operations, this was still very much something that was in his mind because he hadn't yet given the green light for the agents to resume following the money trail of a certain check, I think, that had been found, but he, one of the theories I think I remember was the CIA.

MR. SHELDON: And did he explain what that theory was?

MR. ARMSTRONG: I think that if they pursued the investigation to its fullest length, they would uncover a CIA op...a very sensitive CIA operation. That was the theory. He apparently did not have his antenna raised because of the separate meeting at the White House where he got those documents. But this man was a military man, he obeyed orders, was very loyal, and properly viewed himself as a patriot, so I think he, I don't think for one minute when they first mentioned to him that if he pursued this investigation he may uncover a sensitive CIA operation, that he didn't take that seriously, and didn't think that there was a real possibility that that could be true. I think he did. And the meeting at the White House about the politically sensitive documents didn't affect his thinking. I think that he felt there were a bunch of things going on simultaneously. He didn't see it all as one great big conspiracy.

MR. SHELDON: You don't have any reason to suspect he was actually in the loop of the conspiracy?

MR. ARMSTRONG: No. Absolutely not. No, I do not. I think he was a victim of it. Obviously, he made mistakes, but not to the level of becoming a conspirator. And he was

concerned when the thing began to unravel, he was clearly concerned about, I think he was humiliated and he was very embarrassed by some of the things he had done and he really didn't want it ever to become known that he had taken those documents, because there were various back and forth conversations when the thing was coming undone in the spring of '73 in which he was trying to tell Ehrlichman to, you know, let's keep that to ourselves, so I mean there's some unattractive dealings that he was involved with, but never did he become a party to the conspiracy.

MR. SHELDON: What were the documents that he took?

MR. ARMSTRONG: One of them dealt with Chappaquiddick and I assume it was some attempt to manufacture stuff to try to make Senator Kennedy look bad. The other one was apparently one which tried to implicate the Kennedy administration in the assassination of the Diem brothers in South Vietnam three weeks before Dallas. I think it was, I think those were the two, was to try to show that the administration had something to do with the Vietnamese revolution, and those were the two general areas that were covered.

MR. SHELDON: What was your understanding of the context for giving it to the FBI Director?

MR. ARMSTRONG: My guess would be that they were obviously embarrassing to the White House if it were, if... I assume they were fake, I assume they were things that Hunt and Liddy had manufactured and if it had become known that there were people with an office in the White House or in the Executive, the Old Executive Office Building, who were spending their time doing stuff like that, I assume that would have been political dynamite. And, obviously in a professional investigation, if you're dealing with, what are the contents of Hunt's safe, and you are going to represent, as the White House was trying to represent, that it had turned everything

over to the FBI, they could say they'd turned everything over to the FBI if they turned almost everything over to the professional agents who were investigating the crime and they turned over some other hot stuff that they didn't want to leak to the Acting Director, because he was the FBI too. So I think it was important to them to be able to say that they had turned everything over to the FBI. But these documents were, if they had leaked, would have been obviously very, very sensitive politically.

One other thing I want to say about this luncheon and the timing of this luncheon, is one of the things I learned after Mark Felt was revealed as Deep Throat, at the very time Mr. Gray was about to die of pancreatic cancer. It was within about, a little more than a month after Felt was revealed. I hadn't stayed in touch with Gray so I didn't know this, but I learned shortly after they had revealed that Mark Felt was Deep Throat, that he had some very nasty things to say about Pat Gray, that Gray was seriously ill with pancreatic cancer. Ten days before Gray died, George Stephanopoulos' Sunday morning program, This Week on ABC, they had had an interview with him in which they were getting his reaction to things that had been said by Mark Felt. Gray had written copious notes and was ready to come out with a book, and apparently he called his son, who was a writer, in New England, and said Ed, I wasn't going to write this book but I think, in light of what we've seen, the Mark Felt revelations, we've got to get back in the book-writing business. So a book was published, based largely on his notes, after he had died, the book was published about three years ago. In any event, this book which was, I think written by him based on his notes, with the final part written by his son. Our lunch at Sans Souci took on new significance for me in light of his book. In his book, he discussed a matter where I had been a conduit for information from the agency and the upshot of the information was that he had heard from me that agents told me that he was not getting the straight scoop about what

happened during a protest demonstration on Capitol Hill in '72. There had been an incident involving some FBI agents and maybe some... I don't know whether there'd been, there weren't gunshots fired but there'd been an unpleasant confrontation with FBI agents and some of the demonstrators; for some reason the career people in the Bureau didn't want him to even know that. And as a result of my being a conduit, he found out about it and he apparently ordered an investigation and ultimately the investigation convinced him that the head of the FBI field office in D.C. had not leveled with him and he transferred this head of the FBI office in D.C. to St. Louis; it was a lateral transfer, he was still the head of the office, but he was transferred out of D.C. That later became something of a lightning rod in the *Watergate*-related attacks on Gray because the accusation was that he had transferred this official because he was doing too good a job organizing the *Watergate* investigation. So Gray spends a lot of time in his book trying to demonstrate the circumstances that led up to this transfer, and he says in his book that the impetus for the investigation leading to the transfer was this little bit of information that had been passed on to him by me. All of this occurred in, soon after we were in the Bureau in May and June of '72. The luncheon with him at the Sans Souci, was right before the Fourth of July. One of the things that is discussed in his book had also occurred earlier the same day. He'd been meeting with Mark Felt and some of the other professional FBI people, and they'd been discussing this request to hold off on the investigation because it might uncover a CIA operation. Gray lifted the hold, told the agents to go full speed ahead on following the money trail. There was no longer any reason to hold up because of fear of, that they would uncover a CIA investigation. I may be reading way too much into this, but it struck me as a little bit odd that the one time he sua sponte raised the *Watergate* issue with me was just after he had come out of that meeting with the career FBI people, and realized there was some tension possibly arising from

the fact that they were not going full speed ahead to try to trace down this money. And he had just had this little episode in which he learned that agents were concerned that he wasn't getting the straight scoop on the demonstration that occurred on Capitol Hill. Now that I can look back on it, I have come to think that what Gray was waiting to hear when he raised and started talking out loud about *Watergate* was whether agents had been complaining to me about the *Watergate* investigation. He knew that what...if I had heard anything, which would suggest that the agents at street level didn't think they were being allowed to investigate *Watergate* properly, I would have told him. And I think he was looking for some sort of evidence, if there was any, that his actions as the Director were impeding the *Watergate* investigation. This was probably a dog that didn't bark exercise, because I certainly didn't bark, I had no reason to believe that my friends in the Bureau were concerned that they weren't being allowed to do their job.

MR. SHELDON: Why would a potential CIA investigation prevent a domestic investigation into *Watergate*?

MR. ARMSTRONG: This check apparently, this controversial check, part of the tracing of the check involved Mexico. I think it may have been one of those deals where it was laundered back and forth but there was a Mexican angle on it. I don't remember the specific details, but there was a Mexican angle to this check.

MR. SHELDON: And this was a check made to the Committee to Re-elect the President?

MR. ARMSTRONG: I believe it was a check that involved a man who just died within the last month who was the Midwest finance chairman for the Committee to Re-elect the President, fellow named Kenneth Dahlberg, D-A-H-L-B-E-R-G. Somebody made a check, I guess, to the Committee to Re-elect the President or maybe they made it out to Kenneth

Dahlberg and according to Dahlberg's obituaries—well Dahlberg must have endorsed the check. Somehow or other I guess the check, I don't know the specifics, but it ended up in either one of the burglar's safes or either it had been cashed and the proceeds of that check had been used to pay some of the burglars from Miami who were the ones who actually were in the Watergate, but I, I should have a little bit clearer connection on it but it was, if you would trace, follow the money, if you follow the money because of that check there was a clear path linking the actual arrested burglars and the committee to re-elect. It made the link.

MR. SHELDON: You've mentioned Mark Felt a couple times, can you tell us about your interactions with him, your perceptions of him and if you had any suspicion?

MR. ARMSTRONG: That's one of my favorite subjects. He was, his manner was to be extremely agreeable and flattering in the presence of his superiors. That may be just a trick he picked up from having gotten as far up in the Bureau as he did when Hoover was there and the word was that particularly in his later years Hoover liked people who were not disagreeable or not, don't raise objections to the Director, you just say yes sir, yes sir, yes sir. But for whatever reason, whether he was just sort of trained that way or that was the way he was, he was very non-confrontational in any kind of dealings he would have with his superiors or perceived superiors. And he perceived, since I was on the staff of the Acting Director, with David and Barbara, he had to perceive that we were to be treated as the Acting Director for purposes of that interaction. Gray hired a chef who was from the Philippines and he began to have lunches in the Acting Director's dining room; he would invite to these lunches different people on different days but, we weren't there everyday but we would be invited, David and Barbara and I would be invited and some days Mark Felt would be invited and some days there would, there would obviously be days in which we were both invited on the same day. So my interaction with Felt was...

generally consisted of these periodic lunches that were hosted by the Acting Director with about six people there. Pat Gray also gave me the assignment to attend a meeting Mark Felt hosted each week in his office right next to the Director's office. At this weekly meeting, the Assistant Directors in D.C. from the various divisions report about things in their respective divisions. Gray said he had told Mark he would like for someone from his office to sit in on those meetings. So my dealings with Mark Felt in a face-to-face way were either at occasional lunches which were sort of quasi-business, quasi-social, in the Director's office or at these weekly meetings he would hold in his office. So I certainly knew who he was and I never in my wildest imagination would, when rumors would come out that he was "Deep Throat," assuming that Deep Throat had really operated the way the book says Deep Throat operated with meetings in an underground garage at night and cigarette smoking, I just, it was inconceivable when people said Felt is the leading suspect. It was just inconceivable to me that he could in fact have been Deep Throat. I did not particularly trust—I certainly didn't trust him. He was a major problem according to my friends and his presence was a major reason that they thought there was a need to have a back channel to get information to the Director's office because they didn't trust Felt to tell Gray everything they thought Gray ought to know. So I always...

MR. SHELDON: Why did they think that, because he was a Hoover man?

MR. ARMSTRONG: It was that he was so much a part of the old guard that if there was any sort of thing that the younger agents would like done, that would reflect some major changes in the Bureau and by implication would suggest that in the last years of Hoover's regime the Bureau hadn't been working as well as it should have been working, its priorities were all messed up; this is something that in their view a person like Felt would not want to surface. He would want to stop it, because he wanted to convey to Hoover's successor that everything was

fine. No big changes needed to be made, let's go on with business as usual. So the more progressive, if that's the right word, younger agents, they clearly perceived that he was the old guard and he was an obstacle to reform and so, I always privately viewed him in that light. I had no idea at the time about the huge turmoil of the White House saying he's leaking and you've got to fire him and Gray was, you know going to bat, trying to defend him and all the rest of this stuff. I just knew in terms of my interest in trying to improve the Bureau as an institution, improve its priorities and I perceived that Felt was an obstacle. I was completely cordial and didn't in any way try to pull rank on him. I considered myself to be a subordinate staff person who happened to be working for his boss, but I certainly didn't consider myself to be his superior. I was always very cordial to him and he was very cordial to me. I didn't trust him, but I wasn't one of those people who thought that he had to be moved out of the way; I certainly thought that if we stay here for any length of time and are successful in making some changes that will improve the Bureau, he's going to have to be dragged kicking and screaming to cooperate. After Felt was revealed as Deep Throat and things he had said about Pat Gray became public, the one terrible regret I have about a person like him concerns his approach. If he was really unhappy, I wouldn't have expected him to betray unhappiness around others, since his temperament was to be very deferential to the Director when anybody else was present, but at some point if he thought some things were not being done correctly in connection with investigating *Watergate* and he thought Gray was just a complete tool of the White House and couldn't be trusted, he at least owed it to Gray, who trusted Felt and stood by him when higher-ups accused Felt of being a leaker, to discuss his concerns man-to-man in a private meeting between the two of them: "Boss, some things are going on in the way this *Watergate* investigation is being done which aren't in keeping with the best traditions of the Bureau and

we're unhappy about this, or this, or this." We know from later reports that Felt had lots of perceived grievances about the way the investigation was being conducted. But give the man a chance to show that he can do the right thing. Gray was an interesting person. Yes, he had ties to Nixon and he was a military person and did kind of have a tendency to obey orders and some of his critics would say, perhaps with some justification, he had a tendency to be too trusting, too naïve and too believing of people like John Dean and other people that he shouldn't be believing. But he did really care about the Bureau; I know Felt was unhappy with him because he was out making speeches all the time but he did care about the Bureau and I think if somebody like Felt who had grievances, had really confronted him in a respectful way in the privacy of his office and given him a chance to shape up so to speak, history might have been a little bit different. So I always thought it was wrong if Felt was unhappy, as we now know he was, for him never to have really confronted Gray and given Gray a chance to try to do it the way Felt thought it ought to be done. My last personal dealing with Felt which confirmed my belief that he was always to be viewed with suspicion and was never going to be somebody that was in my fan club occurred shortly after Mr. Gray resigned. Before coming to my last unpleasant encounter with Felt, I will spend a minute on Gray's last day. This was a Friday in late April, 1973, that's the day all hell broke loose. It was reported that he had destroyed certain documents, and he was out of there by Friday afternoon. My last assignment before he left was to get him the telephone number for the law firm of Steve Sachs, which subsequently represented him in various investigations he faced after his resignation. I mention this because I could never have imagined one year earlier when I was thrilled about going to work with the Bureau that my FBI career would end on this note. I was, however, still at the Bureau the next week on Friday, cleaning out my own office and...

MR. SHELDON: Was it just assumed that you would have to leave too?

MR. ARMSTRONG: I, some of my friends that weekend, they said, well Bill Ruckelshaus from EPA is coming over as the new interim Acting Director and maybe it'll be possible for some of you who were on Gray's staff to stay a little while before you leave. I didn't think there was a chance that would happen and it was fairly obvious to me that anybody associated with Gray would be viewed as damaged goods. Although Gray had a lot of critics in the Bureau from the old guard, there were elements in the Bureau who wanted to give him a chance and who did like some of the things he was doing but even they were disillusioned by the document destruction. Even if he didn't share the documents widely within the Bureau to protect their sensitivity, he just can't destroy something that's conceivable evidence and it was sort of a sensitive thing – cleaning out the office was particularly sensitive, because you couldn't take anything out of that office without having it potentially checked by career FBI people. And I had contacts with friends of mine in the Bureau and their phone numbers and their office numbers, etc... It was obvious that if you had access to my office and my rolodex, etc... that, and you were of a mind to try and find this out, people like Mark Felt could really find out if there had been people in the Bureau who had been making backchannel communications to the Acting Director's office. Knowing that I was subject to an inspection when I took stuff out and there were lots of scraps of paper on my desk with people's names, I undertook to tear up this sensitive information while still at my desk, in an effort to protect the identifies of my sources within the Bureau. And apparently I was generally successful, although I missed one relevant scrap of paper because I heard weeks later that somebody's name had not been destroyed and this person had been called by the old guard and questioned about his communications with Armstrong. My secretary who had been a hold over from the old days in the Bureau had grown to be my devoted friend and she was totally loyal to me. On the morning of my last day in the office, she called

me and said, "Mr. Felt's office has called and they want to know what your intentions are." And I said, "Well Nancy, you can tell them that this is my last day in which I'm coming in to work and I'm clearing out my office today and after today I will be on a short period of leave before I assume a new position outside the Bureau." At this point I didn't really have a new position, although I was thinking about applying to the FCC. I went to lunch and came back from lunch and I couldn't get in my office and while I was at lunch Felt had the lock changed for my office. He didn't even wait for the end of the day. So that was all I needed to know to confirm what I had assumed all along which was that Felt doesn't have any use for me and as soon as I no longer have the umbrella protection of working for his boss, life is going to be very unpleasant for me and the lock changing confirmed that.

MR. SHELDON: Did you or do you still feel betrayed by his actions at all, when you found out that he was Deep Throat?

MR. ARMSTRONG: No. I don't feel betrayed by it at all. I can certainly understand why Mr. Gray, in the very brief period of time when he was still living after Deep Throat was revealed, would feel betrayed for the very reason I mentioned to you a minute ago. Specifically, Gray must have thought here's a guy who never gave me any indication in our face-to-face dealings that he didn't like the way I was conducting my job as Acting Director and now I know that he did have all these grievances. Yes, I would have felt betrayed if I had been Gray, but certainly I didn't personally feel that way.

MR. SHELDON: Do you feel his actions were wrong or that he was somewhat justified?

MR. ARMSTRONG: Well I do feel that before he did anything he should have given Gray a chance to do things the right way. I've been working in the past few years with a

freelance writer, Max Holland, H-O-L-L-A-N-D, and he's done some pieces, I think on Lee Harvey Oswald, and the Kennedy assassination. He got very interested after the Deep Throat revelation about Mark Felt, in exploring Mark Felt's motivation for acting the way he did. Max Holland was coming at this from an angle which was somewhat critical of Felt; he was not joining the school that viewed Felt as a patriot who risked his own career to save the country. He was either going to do a very long article or a relatively short book and he asked me for a lot of background information which I was happy to give him and he sent me an email just a couple days ago advising that his book is going to come out in February. I think it will be apparent from that book that there is reason to be critical of Felt and his motivation. The career professional FBI, I suspect, there was a huge divide between people who thought he was a potential savior and a lot of other people who thought he was a large part of the problem and that his motives weren't good. My fundamental gripe with him is what I told you. If we could rewrite history and Felt had directly complained to Gray and then didn't get any indication from Gray's reaction that Gray was anything but a political pawn of the White House and all of Gray's professed interest in the FBI as an institution was subordinate to that, if that had in fact been what happened then I would certainly understand how a person in Felt's position doesn't have to sit there and take that. At least two courses of action would then have been open to him. Ideally given differences with his boss about the conduct of the *Watergate* investigation and having been unable to get things changed the way he wanted, he could have resigned on principle. Or perhaps it would then at least have been less blameworthy for him to follow the course he did.

The thing that's so interesting about Felt to a reader of Max Holland's book is, even in spite of all of his reservations, suspicions and dislike of the White House he apparently continued to harbor some desire to be the Director. He was disappointed when he wasn't named Acting

Director immediately after J. Edgar Hoover died, but this book indicates that a lot of Felt's motivation was to try to undermine Gray, make it impossible for Gray ever to be the permanent Director of the Bureau. He apparently still nurtured dreams that he might get the job himself. So Felt was not completely prepared to blow the whistle on the White House because he was still holding out hope that the White House might turn to him to be the permanent Director.

MR. SHELDON: As *Watergate* events unfolded or as the investigation really unfolded, how would you learn about things? Would you hear them backchannel through your FBI contacts or would you just read it in the newspaper and learn it from everyone else?

MR. ARMSTRONG: I heard, as I said to you before, the discussions that I had with my backchannel people, they were talking, they were going forward in a context where I don't think either they or I believed that Gray's vulnerabilities in terms of *Watergate* were as great as they proved to be. So they were going forward on the premise that he's going to be here for awhile, probably as the Director and what kind of Bureau will we have in terms of our policies and our priorities. There was, apparently they didn't have any indication that the investigation wasn't being handled properly. So no, I didn't find out much of anything at all from back channels inside the Bureau. I found out, I knew what everybody else knew who read the *Washington Post* in the morning. I didn't know much more than that. Now, I certainly said earlier that I had seen John Dean in the Acting Director's office so I knew there had been at least some communication which made me suspicious and that had gone back to the very beginning of the investigation. But it was when he was finally nominated, my boss, to be the permanent Director in February of '73, about three weeks after Nixon's second term had begun. The confirmation hearings began in late February and March of '73 and all of this was before the famous sentencing hearing at which Sirica read a letter and that was really when things began to completely blow up. But

during the Gray confirmation hearings before the Judiciary Committee, there was a lot of testimony about his dealings with the White House and one of the things that came out was that he had allowed John Dean to see the files, the 302's which were the FBI documents in which an agent interviews someone who is a potential witness in an investigation and they reduce the interview to what was called a 302; these files in the investigation had been shared with Dean. This was developed during the confirmation hearings and it was also pointed out, I think it was developed in the hearings that Dean had sat in on the interviews of White House personnel. The things that I wish a professional FBI investigator could have talked Gray out from allowing, or at least talked about it with him before it was allowed. All this began to come out during the confirmation hearings. So, I really began to know of the vulnerabilities, some of the juicier problems during the confirmation hearings.

MR. SHELDON: And those confirmation hearings were just a few months before you ultimately left?

MR. ARMSTRONG: Those confirmation hearings were in February and March of '73. The last day of active testimony was when Senator Byrd of West Virginia picked up on something which we had noticed when we were preparing Mr. Gray for these hearings; at this point, my colleagues, David Kinley and Barbara Herwig and I, were beginning, under the need-to-know approach, to get access to the files. In the course of going through the files to try to prepare him for the questions...

MR. SHELDON: Are you talking about the *Watergate* files?

MR. ARMSTRONG: Yes. At that point we are talking about some of the actual *Watergate* files.

MR. SHELDON: And that was the first time you had seen those files?

MR. ARMSTRONG: It's the first time I had seen the *Watergate* investigation in real specificity. It was apparent to us, in the course of doing our homework, that Dean had been caught in a flat-out lie to the FBI, concerning the safe, Hunt's safe in the White House office building. Whether Hunt had had an office in the White House? That was one of the questions. It was apparent from the files that Dean had not been truthful. The only real issue was whether anybody on the Judiciary Committee was going to have the wits to elicit all of this damaging information in the public hearings. And whether it was because of a leak or one of the other controversial things Gray had done, which upset the White House greatly, which was to share the same files that I had seen—he had shared these with the members of the Judiciary Committee who were conducting his confirmation hearing giving them an opportunity to look at the files.

So, by one means or another, I don't know whether it was because of what he saw in the files; Senator Byrd did put his finger on the problem with the Dean statement to the agents. And he asked the question, "Well, it appears to me, Mr. Gray, that the White House Counsel lied to the Bureau." And, this was a very dramatic moment in the hearings. And Gray said, "Senator, it appears that way," or words to that effect. And, at that point, little did we know everything else, at that point, that was happening at the White House. But all that happened near the end of March. And apparently it was just a couple of days after that John Dean got his lawyer and made his decision to turn against the President and reveal what he knew.

A week or so after that explosive testimony, the word came out that, I think the word had been passed to Gray – we didn't know about it personally, but the word was passed to him that after a head count of the committee, he didn't have the votes to be confirmed. So, around, in the early part of April, he withdrew as the nominee to be the permanent Director. But, at that point, he was going to stay on until the permanent Director was confirmed. He was a lame duck but

still the Acting Director. About three weeks after that, I guess because Dean had begun to spill the beans to the investigators, it became known that there'd been this problem with the documents from Hunt's safe that had been given to Gray and when that came out his support completely collapsed. Even the people in the Bureau who had looked upon him as good Pope Pat, so to speak, reforming the Bureau and bringing an element of fresh air, no longer supported his continuation as the Acting Director. As one of my agent friends said, you just can't have the Director of the FBI destroying documents. He had to quit and did towards the end of April '73. And then it was the next week that I had the lock on my office door changed by Felt.

MR. SHELDON: And, when you were preparing him for this hearing, were there senators you were worried about, like Byrd?

MR. ARMSTRONG: Well, from the very beginning, Byrd had been hostile. He had been, for whatever reason, whether the old guard in the Bureau had gotten to him and just soured him on Gray. Whatever the reason, he was hostile from day one. I thought the more difficult testimony would come from questions by Senator Kennedy, Tunney, Senator Phil Hart of Michigan. Senator Eastland was a Democrat and the Chairman, but he was sympathetic to the administration from Mississippi, more conservative oriented. So, he was not a problem. But Senator Ervin was on that committee; he was something of a problem.

But while we were doing the work, trying to prep him for the hearings—we weren't particularly trying to, you know, prep him vis-a-vis the individual senators. We were just trying to make sure that he knew what was in those papers in the files. Like what were the areas that were potentially very explosive.

MR. SHELDON: Did you ever have a moment after you left the FBI, or as you were leaving where you kind of sat back and realized everything you'd just been swept up in?

MR. ARMSTRONG: Yes, particularly the last day after the blow up about the destruction of the files... that was a very dark, dark moment for me and I assume for Dave and Barbara as well, because I remember that our boss on his last day on the job, he was sending me to get Steve Sacks' phone number. This town was so interested in *Watergate* and all of the stories that had been printed now seemed to be true. I believe it was also on this day that it came out that there'd been a break-in in Daniel Ellsberg's psychiatrist's office. There were so many people on the corridor in the Justice Department outside the Director's office, on that suite of offices. It was wall-to-wall with reporters and I remember distinctly thinking, "I don't wanna leave my office until this crowd disappears because if anybody walks out of these offices, we are immediately going to be jumped upon by reporters and so this is grim."

I thought I have made perhaps a terrible career choice in not staying in the U.S. Attorney's Office as an AUSA until I am ready to look for an opportunity to enter private practice. Instead, I have perhaps gotten myself in a situation where I'm very damaged goods and I may not have a chance to be doing much of anything in the way of a legal career. I didn't think there was going to be a problem where I would have to ward off allegations that I had done anything wrong, although after I left the FBI, there were moments when I even wondered about that. I was never called to the grand jury, but I was called in to the Special Prosecutor's Office. Not so much because of *Watergate*, but because of some break-ins. There apparently had been some domestic intelligence break-ins which Mark Felt and some of his friends in the Bureau had ordered and apparently never got clearance from Pat Gray about this; never told him about it. But the end result was that Felt and Gray and another FBI career official, they were indicted for these break-ins. And I was questioned by the Special Prosecutor's Office about what, if anything, I knew about all this.

So, while I didn't really think in April of '73 that I was going to be in any personal trouble. I mean, I knew it just wasn't going to look very good on a resume what had been happening. It had been an enormously exciting time, but it's not the kind of thing you want on a resume, so had it not been for this lifeline that Chuck Lichtenstein provided me to the Federal Communications Commission, I don't know what I would've done. Very shortly after this tumultuous departure from the Bureau, I was on pace to start working with the FCC, so it worked out okay.

MR. SHELDON: Well, let's take up on that our next session then. Thank you.¹

¹ Several months after this interview session, the publication of the book "Leak-Why Mark Felt Became Deep Throat"(University Press of Kansas 2012) by Max Holland refreshed and corrected Mr. Armstrong's recollection of an incident concerning the exchange of a document between the FBI and John Ehrlichman's office at the White House, as discussed earlier in this session. Mr. Holland refers at page 221 in the Notes to his book to a decision by Acting Director Gray in August 1972 to provide John Ehrlichman with the FBI's file on Henry Kimelman, who at the time was the finance chair of the McGovern campaign. Mr. Armstrong now believes that his assignment was to deliver an envelope to Ehrlichman's office instead of picking up one from that office, contrary to his recollection at the time of the interview. He is also now convinced from the timing of this delivery in August 1972 that the envelope in question contained the Kimelman file although Mr. Holland's book is the first and only source of his information on the likely content of the envelope.