

**ORAL HISTORY OF  
PAUL C. WARNKE - THIRD INTERVIEW**

**MARCH 27, 2001**

This is the third interview of the Oral History of Paul C. Warnke as part of the Oral History Project of the D.C. Circuit Historical Society. It is being conducted by William Ross on Monday, March 27, 2001. The tape and any transcripts made from the tape are confidential and governed by the wishes of Mr. Warnke which ultimately will be made in the form of a written donative instrument.

Mr. Ross: We were talking, Paul, about your service in the Department of Defense which was essentially 2 years and about your relationship with, particularly, Secretary McNamara.

Mr. Warnke: Was it only 2 years?

Mr. Ross: Well, I have the dates '67-'69. That could run 2 1/2 years.

Mr. Warnke: I think it started in September of '67, and I got out in -- I stayed for several weeks with Mel Laird. In fact, I think I'm probably the only person whose resignation was accepted by two Presidents.

Mr. Ross: Good.

Mr. Warnke: When Johnson was President, I got a letter thanking me for my service. And then I got back in, so I got a letter from Richard Nixon also thanking me for my service.

Mr. Ross: Well, that means that you're acceptable to all sides.

Mr. Warnke: Right.

Mr. Ross: Well, we'll say up to 3 years.

Mr. Warnke: About 2 1/2 years.

Mr. Ross: Len Niederlehner, whom I knew, was rather prominent in your life.

Mr. Warnke: Oh, yes, Len was Deputy General Counsel longer than anybody.

Mr. Ross: And did you meet with him almost on a daily basis?

Mr. Warnke: Oh, yes. Sure. We had offices across from one another.

Mr. Ross: He was a very sagacious person.

Mr. Warnke: Yes, he was.

Mr. Ross: I remember being involved with him in various ways when I was on the Presidential staff, and so on. Were there one or two other people other than the Secretary who were of significance to you?

Mr. Warnke: Of course. Cy Vance was and then Paul Nitze.

Mr. Ross: Tell me a little bit about Cy, about your personal relationship with him.

Mr. Warnke: Well, he was the reason I was in the Defense Department. We met during the campaign and then he became General Counsel of the Department of Defense, and I was very interested in going with the Department, so I went over and talked with him on a couple of occasions. And I think I said the only job I was offered was General Counsel to the Army.

Mr. Ross: Right.

Mr. Warnke: And I felt at that point, being a partner in Covington & Burling that not to get a Presidential appointment was just something I was not prepared to do.

Mr. Ross: I can understand that. And, so the time came when you became General Counsel.

Mr. Warnke: It was quite a bit later. What happened was that Cy Vance was General Counsel, and then Cy became Secretary of the Army, and the post of General Counsel became open, and actually Bob McNamara was for Adam Yarmolinsky. Adam had worked very closely with him, and he wanted Adam to become General Counsel. And the Senate for some reason was very strongly opposed to Adam. He was red meat to an attacker.

Mr. Ross: He was one of my oldest friends.

Mr. Warnke: Oh, really?

Mr. Ross: He had an abrasive personality.

Mr. Warnke: Well, it wasn't that so much. I think it was a combination of things. In the first place -- his looks. He did not look like the average human being and he was rather small. I first met Adam when we were both in law school. He was editor-in-chief of the *Yale Law Journal*; I was editor-in-chief of the *Columbia Law Review*; and we had the so-called blue book, which was the standard form of citations.

Mr. Ross: I hated it.

Mr. Warnke: Yes. And Adam had the feeling that the various law review boards who were responsible for the blue book should get to know one another. So, he invited the editors of Columbia, Harvard and Pennsylvania to meet with the Yale Board. We met in New Haven and had a very good time. And then he was down here when I came down, and we renewed our friendship. And we were really very good friends. But he was just regarded by people like Barry Goldwater, among others, as a pinko. And he looked like a pinko. Adam

looked as though he had a bomb in his back pocket. It was odd because he was really rather conservative, much more conservative than I was.

Mr. Ross: But you looked like a Wall Street banker when you wanted to.

Mr. Warnke: So, he and I became friends and McNamara kept hoping he could get to be General Counsel, so he kept the position of General Counsel open for quite awhile, and then gave it to John McNaughton, and then John became the Assistant Secretary of Defense for International Security Affairs.

Mr. Ross: Right.

Mr. Warnke: And the job of General Counsel remained opened until I was offered it in 1966. And Cy Vance asked me whether I would be willing to take it, and I said I would jump at it, which I did.

Mr. Ross: At that time what do you think were the things that you were doing that were most important to the Department?

Mr. Warnke: You mean when I first got in?

Mr. Ross: When you first got in.

Mr. Warnke: Well, the thing was that McNamara really regarded the General Counsel as kind of a utility infielder.

Mr. Ross: Right.

Mr. Warnke: What you did was whatever it was that he was interested in doing at that particular time, and among other things there was the Secretary's Committee on International Affairs -- I forget whatever they called it -- but Johnny Foster was the principal guy from the Department dealing with it, and so I worked with them for some period of time. That's where I

first got to know Dick Garwin. Dick was on that committee and he couldn't really understand why the Secretary's lawyer was attending meetings. I tried to explain to him that I was not the Secretary's lawyer, I was the Secretary's utility infielder.

Mr. Ross: Right.

Mr. Warnke: And he was interested in what the Committee was doing, but Dick could never get it quite straight.

Mr. Ross: For the record, Dick Garwin.

Mr. Warnke: Well, Dick Garwin I think at that time worked for IBM. He was a scientist and very interested in the government, and of course I worked with Dick very recently when we were both on the Arms Control Committee.

Mr. Ross: Right.

Mr. Warnke: ACNAB. Arms Control Nonproliferation Advisory Board.

Mr. Ross: You mentioned Yarmolinsky. What was Adam's role at that time in government?

Mr. Warnke: Well, he was a special assistant to McNamara, and McNamara always wanted him to be an Assistant Secretary, specifically General Counsel, but there was just too much animosity towards Adam, which I could never quite understand.

Mr. Ross: I wanted to ask you about this, because I've known Adam way back. Harris Wofford and I were working together on some matters for Kennedy's transition, and I got to know Yarmolinsky quite well. He had many capacities, and one of them was to seemingly be aware of a whole complex of things at one time and to be able to poke through into a significant thing. I've had many, many conversations with him. Of course, we served on the LAWS Board

in later years, and Adam almost always would come up with some point of view or some point that nobody else had thought of and it was very impressive. At the same time you perhaps didn't see the side of him that I saw. He had a gift of antagonism.

Mr. Warnke: I could never see that.

Mr. Ross: Well, you might have if you'd worked for Barry Goldwater. And I talked to a number of people of that political ilk, because I was interested. Adam was a friend of mine, and I could see what was happening to him politically. And it was puzzling, as you say. It's always puzzling, but you keep telling me he could start out being more conventional. I never said because of the way you look and so on, but he was well aware of the way he looked, and his background and his mother and his father were always an element, always one sensed that they were there in some strange way, but he was defiantly with himself.

Mr. Warnke: Very much so.

Mr. Ross: Were you ever in a meeting with Adam which you felt epitomized the role that he was playing in the Department with McNamara and with you and other people?

Mr. Warnke: I think that he had left the Department by the time I joined.

Mr. Ross: I see.

Mr. Warnke: So we didn't work together in the Department. I met with him very often because he was in trouble with the Congress, and Mark Schlefer and I were basically his lawyers, and I worked with him. I think it was his appearance more than anything else.

Mr. Ross: You mentioned Paul Nitze. He's a very prominent figure. What was Nitze's role at the time when you joined and served in the Department of Defense?

Mr. Warnke: He at that point was Secretary of the Navy.

Mr. Ross: I had forgotten that.

Mr. Warnke: For some reason he was regarded as a pinko by some of the people in the Senate. I think it had to do with some international organization that he had been connected with. I've forgotten what the name of it was, but he had attended a couple of their meetings. And particularly Barry Goldwater thought of him as being a lefty, which was not -- never was so. So, he had difficulty getting appointed to a Senate confirmation job. McNamara finally was quite insistent that when Cy Vance left, that he was going to be Deputy Secretary of Defense. And he managed to use some of his brownie points and got Paul confirmed.

Mr. Ross: Did you get along with Paul Nitze?

Mr. Warnke: Very well. As a matter of fact, we were quite close. We met on a daily basis and usually shared very much the same position. I'd say he was a little more apprehensive about the Soviets than I ever was. He thought of them as being a malignant power that was out to get us, and I never could quite have that feeling. I thought they were a problem of course, a very severe problem, but the fact of the matter was that we were very highly regarded by the rest of the world. They were not. They had associates but not friends. I mean the Warsaw Pact was an involuntary organization. And to compare it to NATO is absolutely absurd.

Mr. Ross: Jumping ahead a little bit, I want to come back to Nitze. Have your relations with him continued to be cordial over the years?

Mr. Warnke: Oh, no. I was named to be Arms Control Director at the beginning of the Carter Administration. The first time I realized that there was a problem between Paul and me was when we went down to Albany, Georgia, where we met with the nominee, Jimmy Carter. We had a discussion about foreign affairs and disagreed really quite firmly about foreign affairs,

and from that point on, our relationship soured. And then when I was named to the ACDA job, Paul Nitze, of course, actively opposed it. And he managed to get Scoop Jackson intimately involved in it. Scoop Jackson, according to what I've heard since, really said "if he doesn't appoint Warnke, he'll appoint somebody equally susceptible to influence from the Soviets so it didn't really matter." But Paul Nitze actually got him to hold hearings, and then much to my surprise testified very strongly against me, and I could never really quite understand that because I thought we had a good relationship. I mean we -- they were here for dinner several times, I was at his house with Phyllis several times. We traveled together and I thought we were friends.

Mr. Ross: What did he say to criticize you?

Mr. Warnke: Basically that I was soft on the Soviets, really didn't understand them, would be just easily chewed up by the Soviets.

Mr. Ross: That the Soviets were getting stronger.

Mr. Warnke: Yes.

Mr. Ross: And we were getting weaker.

Mr. Warnke: We were getting weaker.

Mr. Ross: Actually, it was just the opposite.

Mr. Warnke: It was totally the opposite. There's no comparison. I had a fair amount to do with the Soviets when I was with the Defense Department because, of course, the Assistant Secretary for International Security Affairs was sort of -- well, referred to as the Secretary of State of the Defense Department. And, it's where I first had contact with NATO. And McNamara was great to work with. He gave you a great deal of leeway. He either liked you and cooperated fully with you, or he couldn't stand you. And if he couldn't stand you, you were

just sort of pushed over to one side and nobody paid any attention to you. And he and I for some reason got along very well and became personal friends and have remained personal friends. He and Nitze had a craggier relationship. Paul Nitze of course expected that he was going to be Secretary of Defense.

Mr. Ross: Well, that does make it more difficult.

Mr. Warnke: It does.

Mr. Ross: Do you have any sense why the ground shifted under you and Nitze?

I know you can't probe his unconscious -- but I am asking you this to get the feel of --

Mr. Warnke: We were at the Defense Department together. And, as I said, we got along very well. I thought we were friends.

Mr. Ross: So, your views were not --

Mr. Warnke: Not that different.

Mr. Ross: What happened in the world that moved you two apart?

Mr. Warnke: I'm not really quite sure. I always thought it was a personal thing that Paul always thought he was going to be a more important figure in politics than he was, and I don't think he realized his personality was aggravating to a number of people. Never to me, but a lot of people just thought he was very intolerant, that he looked down on them. I could never figure out why it became so personal. I mean he was just determined that I was not going to get that job.

Mr. Ross: Well, people then build on that in their own minds to justify their positions. Let me go back to the Vietnam War. McNamara has written a whole book about his progress. You were, of course, Assistant Secretary during a critical period in the war, and you

were opposing the war I think you said -- a continuation of the war.

Mr. Warnke: Yes. When I was approached at long last to take the job with the Defense Department, Cy Vance was the one who called me, and I said that you've got to realize that I think the Vietnam War is a big mistake, and what he said was I will tell that to Bob and it will make no difference. And that was the first time I heard that Bob McNamara had very serious doubts about the war.

Mr. Ross: Yes, let's get that on tape. Cy Vance said it will make no difference, it doesn't matter and that at least suggested to you --

Mr. Warnke: -- that they had their deep reservations about it.

Mr. Ross: McNamara had deep reservations about it.

Mr. Warnke: The problem -- I think I mentioned this before -- when Bob took over as Secretary of Defense, he had a great background as far as education was concerned, as far as being a top executive was concerned. He had no government experience and no familiarity with foreign affairs. And he was part of a group that included Dean Rusk, Maxwell Taylor, McGeorge Bundy, Walt Rostow, people that were supposed to be experts in the field of foreign affairs. And, like Lyndon Johnson, who also had his deep reservations about the war, he was just persuaded that these guys had to be right, that they knew so much more about it, and not only were they very familiar with foreign affairs, they certainly did not lack self-appreciation. They were people with very, very strong feelings that what they felt was right. And, one of the key ones was McGeorge Bundy. McGeorge Bundy was a particular favorite of JFK. And JFK actually wanted him to be the Secretary of Defense or the Secretary of State, either one, but he just didn't have that background at that point. But McGeorge was (a) very self-confident and (b)

very persuasive.

Mr. Ross: This is a very critical thing, of course. You must have been very well aware of the history of these men. They came in with Kennedy and were called the “whiz kids,” and of course they were very smart, very well educated, and I gather from what you’re saying that you had doubts and had had them for some time about our getting involved in a land war in Southeast Asia. Now, what was the chemistry between you and them, and when you were in a meeting with these people --

Mr. Warnke: It seemed to me that the Defense Department at that time was full of nonbelievers.

Mr. Ross: That’s interesting.

Mr. Warnke: Basically, there were just an awful lot of people who had deep reservations about the Vietnam War.

Mr. Ross: And the government was full of these people, and the war was going on.

Mr. Warnke: There were unfortunately many more of them in the Defense Department than there were in the State Department. And in subsequent writings Bill Bundy, for example, indicates, which was the case, that he had strong reservations about the Vietnam War. But he became persuaded and then became a very strong advocate. In fact, he and I had a rather craggy relationship because of that. We had known one another for some time. We were young lawyers together in what was then Covington, Burling, Rublee, Acheson & Shorb and he went with the CIA.

Mr. Ross: Yes. Yes.

Mr. Warnke: He and Mary and Jean and I, back when we first met, were really friends. We went out to dinner together and stuff like that, so this was really a case of beliefs interfering with friendship.

Mr. Ross: You say there were plenty of people in Defense -- these were mostly the civilian people.

Mr. Warnke: The military always goes along.

Mr. Ross: Well, they have to.

Mr. Warnke: That's a tradition. That's what they have to do. So, if they had their doubts, they kept them under cover.

Mr. Ross: And you have then the people over in State who were strong believers. We had to control the situation.

Mr. Warnke: And if we didn't, that China would take over the Far East. That's what I could never get through my head was the idea that somehow China was that kind of a political force, which they weren't. They were a large country and that's about all I could say for them. But some people in State had reservations. When I was Assistant Secretary, I used to meet with Nick Katzenbach, who was then the Deputy Secretary of State, which was the number two job. The military just figured that civilians were in control and there was never any effort on their part to try to change politics. Who was the Chairman of the Joint Chiefs? Earle Wheeler. And at McNamara's direction I met with Bus Wheeler every Thursday morning. We'd meet in preparation for the non-group ---

**(End of Tape #3) (Start of Tape #4)**

Mr. Ross: You were talking about meeting with the non-group when I had

changed the tape. Go ahead.

Mr. Warnke: They met on Thursday evenings, and Bus Wheeler and I would get together on Thursday morning to see if we could come up with more or less a common position, which was difficult because with Bus, whatever the President said was his command. A very nice guy. A combat veteran during World War II, and he I think was always a little surprised that my position was sort of a rebel, and he thought of me as being a rebel.

Mr. Ross: Well they were military people in a difficult position. They were fighting a war that nothing seemed to work.

Mr Warnke: That's correct.

Mr. Ross: And casualties were mounting, weren't they?

Mr. Warnke: They were.

Mr. Ross: They could sense it was becoming, at least to some extent, more controversial in the country.

Mr. Warnke: Yeah. And I think that they ended up feeling that we were pulling our punches.

Mr. Ross: Yes, of course.

Mr. Warnke: We just weren't going all out. And that was my fundamental point of disagreement. I think I mentioned to you that after my first trip to Vietnam, my feeling very strongly that there wasn't any South Vietnam, and as a consequence, you couldn't win the war.

Mr. Ross: You couldn't win.

Mr. Warnke: You could wage a successful occupation, but there was no way of winning the war.

Mr. Ross: It wasn't a country that you back.

Mr. Warnke: I think I mentioned the two pictures on the wall.

Mr. Ross: Right, right. And what was Wheeler's reaction to this? He must have been causing to think.

Mr. Warnke: Yes, but in common with what they say of all of the military, they were just sure the United States was right.

Mr. Ross: They sort of get trained that way at West Point --

Mr. Warnke: They get trained that way. The idea that the military represents an independent force that's of danger is totally absurd. They're totally under control.

Mr. Ross: Well, that's a good thing in a way.

Mr. Warnke: A very good thing. And they always have been. And, of course, my own feeling was Johnson had very deep reservations about the war. In fact, Bob told me that. But once he was in the war, he was President of the United States, and we had to win.

Mr. Ross: Right. Your main feeling about how the President decided came from talking with McNamara.

Mr. Warnke: Oh, yes. See, they had the Tuesday lunch, and that's when an awful lot of things got decided, or not decided. And Dean Rusk, of course, was totally convinced that we were on the right side; we had to win; we could win. That came from -- I think I mentioned to you -- he was with the Department of State and worked for -- who the hell was the Assistant Secretary of State at that point?

Mr. Ross: That white-haired man was Secretary. What was his name? He had a white -- Stettinius or am I in the wrong --

Mr. Warnke: Yes, that's right.

Mr. Ross: Stettinius. I don't remember whether he was a professional diplomat or not.

Mr. Warnke: No, he was not. He was a businessman.

Mr. Ross: So Rusk was a true believer.

Mr. Warnke: Yeah. He was fighting China. Willard Robinson? He was an Assistant Secretary of State at the time that we "lost China." And that just had a permanent mark on him, and he was totally persuaded that we had to win because otherwise China would just dominate us. He believed when Vietnam "fell," then Burma would fall, Thailand would fall. But the only domino, in fact, was Laos. If Vietnam should fall, Laos would fall, and who would know the difference?

Mr. Ross: Exactly. How did you feel about the domino theory?

Mr. Warnke: I thought it was nonsense. I didn't think that there was any South Vietnam. That South Vietnam was really an illusion. It was an American concoction and Burma was totally independent of that. Laos was a non-country.

Mr. Ross: Well, you've certainly been proved right in history that China's ability to project power beyond its own borders has been very limited.

Mr. Warnke: And I think that they knew it.

Mr. Ross: Who is they, China?

Mr. Warnke: The Chinese. Maxwell Taylor was very influential. He was a very impressive guy physically, and very sure of himself, and he had a very big impact on Johnson.

Mr. Ross: He had been a general in World War II.

Mr. Warnke: Yes.

Mr. Ross: A decorated hero.

Mr. Warnke: And a very nice man. Very pleasant. He and I could not have disagreed more on this particular subject, but we remained friends.

Mr. Ross: What was his position during this time in the government?

Mr. Warnke: I think he was no longer officially in the government.

Mr. Ross: I see. He was a public figure.

Mr. Warnke: He was a close advisor to Johnson.

Mr. Ross: Right. Did he come from Texas or not?

Mr. Warnke: I don't think so. If he did, he didn't have a Texas accent.

Mr. Ross: And he was a real hawk.

Mr. Warnke: Yes.

Mr. Ross: Walt Rostow.

Mr. Warnke: Total hawk.

Mr. Ross: Total hawk? What kind of a relationship did you have with him?

Mr. Warnke: Well, we had a perfectly friendly relationship. I had known Gene Rostow. We were fellow lawyers.

Mr. Ross: Dean of Yale Law School.

Mr. Warnke: That's right.

Mr. Ross: Well maybe we can move on. I think we were going to come back at times to some of this. You left the Department of Defense at the end of '68.

Mr. Warnke: No. After about 3 months of '69.

Mr. Ross: After about 3 months of '69.

Mr. Warnke: Actually I mentioned to you that I'm one of the few people who has letters of resignation accepted by two Presidents. Mel Laird had wanted me to stay on.

Mr. Ross: Could you stay into Nixon's term?

Mr. Warnke: Well, I did.

Mr. Ross: You did. But I mean beyond 3 months.

Mr. Warnke: No. I had agreed with Clark that we were going to practice law together and I was totally out of money. Totally. I had five kids, and I went from making about \$200,000 a year, which back in 1966 was a fair amount of money for a lawyer, to making \$29,000, which made it rather difficult.

Mr. Ross: Sure did.

Mr. Warnke: When Jean heard that I had been offered the job of General Counsel for the Department of Defense, she said, "What a shame you can't take it." And my daughter Maggie was in town interning on the Hill, and she and I drove home together. Maggie said to Jean, "I think he already has."

Mr. Ross: She knew you.

Mr. Warnke: Yes.

Mr. Ross: How old was Maggie roughly at that time?

Oh, she was probably 21.

Mr. Ross: So there was Clifford, Warnke, Glass, McIlwain.

Mr. Warnke: McIlwain.

Mr. Ross: McIlwain, I'm sorry. I've got it spelled here.

Mr. Warnke: (spells name) M-c-I-l-w-a-i-n. Carson Glass and Sam McIlwain had been with Clark when he got the firm going. Tom Finney was also there. Tom had been on the Hill, and then with a subcommittee. Tom was very bright. Basically, he and I were the forces that tried to keep Clark in line and usually succeeded. He very tragically developed ALS. Died quite young.

Mr. Ross: What was the composition of the law firm when you joined it?

Mr. Warnke: Well, let's see. There was Clark, there was Sam McIlwain, there was Carson Glass, there was Tom Finney, a fellow by the name of Larry Williams who had been with the Department of Justice, Antitrust Division, and that was about it. David Granger, who was an associate.

Mr. Ross: Were all of the people that you mentioned partners in one way or another other than Granger?

Mr. Warnke: Other than David Granger, right. Let's see, who else? David Granger, Dick Spradlin, and Jim Stovall, and that was it. And they were associates.

Mr. Ross: Give me those names again. Just say them again.

Mr. Warnke: Richard Spradlin, Jim Stovall.

Mr. Ross: So you had three associates and six partners.

Mr. Warnke: Yes.

Mr. Ross: And when you joined the firm -- when you had the conversations with Clark Clifford and the other partners -- what was the concept, the strategic concept?

Mr. Warnke: Well, my reason for going with the firm was very simple that had nothing to do with the firm. Hubert Humphrey, when he was defeated, said that if he had been

elected, he would have named Clark Clifford as Secretary of State. And Clark Clifford assured me that if he became Secretary of State, I would be the Deputy Secretary of State.

Mr. Ross: I see.

Mr. Warnke: So I basically joined with Clark not because of the law practice, but because of the fact that I was so enchanted with being in the government, that the idea of being in there again was more than I could resist.

Mr. Ross: And in the meantime, you could make some money so you could pay those college expenses.

Mr. Warnke: Oh yeah, I could make some money, but of course I could have made that kind of money with Covington & Burling, too.

Mr. Ross: So that's why instead of going back to Covington, you --

Mr. Warnke: It was because of the fact that I figured that Clark would get back into the government, and he and I had become quite close, and, I don't want to sound immodest, but he had relied very heavily on me when he was Secretary of Defense. I had been there for a couple of years, and we'd meet every morning, along with Paul Nitze.

Mr. Ross: The Deputy?

Mr. Warnke: Paul Nitze and Bob Pursley. Bob was an army colonel and very good, very bright guy. You must know Bob, he's on the Arms Control Association Board.

Mr. Ross: I just know his name. Let's talk a little bit generally about Clifford. I want to, of course, go into his associations with you, but one way of getting into this is why do you think Clifford became Secretary of Defense? He didn't have any prior relevant experience.

Mr. Warnke: He was very close to Johnson, and Johnson had offered him a

number of jobs, including Attorney General. Clark turned them all down, but he said he just couldn't see how he could turn down being Secretary of Defense because he felt very strongly about the Vietnam War, he felt very strongly about military affairs generally. He said that he had to take that job. He was good at it.

Mr. Ross: I gather he was.

Mr. Warnke: His relationship with Paul Nitze was always a little craggy. Paul had the belief that he, rather than Clark, should have been Secretary.

Mr. Ross: Besides Clark was soft too. He was hard.

Mr. Warnke: Nobody knew Clark was soft at that point. That's one of the reasons that Johnson named him. He figured he was a real, real cold warrior, which, in a sense, he was. He went to the Far East -- it would have been -- let's see, when did he become Secretary of Defense -- '67?

Mr. Ross: That's about right.

Mr. Warnke: This was in the fall of '66, and he and Maxwell Taylor went to Asia and the principal purpose of their trip was to try and rally support from the Asian countries to put more people into the Vietnam War. It had the opposite effect on Clark. The more he talked with people, the more he realized that nobody thought it was a very important war except for the United States. He had talked to the Australians, the New Zealanders, the Thais, and they thought it was really not that important, but they went along with it because the United States -- . So that trip really solidified Clark as their guy. But Johnson didn't realize that. Then there were a series of meetings -- this was when McNamara was still Secretary of --

Mr. Ross: You were talking about Clifford and DOD, and I didn't get enough

of what you were starting to say to be able to cue you.

Mr. Warnke: As I say, Johnson really asked him to be Secretary of Defense because he thought that McNamara had gone soft on the war, and he wanted to get someone in who was a strong believer in the war. He picked Clark. As it turned out, Clark was just as opposed to the war. He was quieter about it for a while.

Mr. Ross: Let's go back to the time when you first walked into the Clifford Warnke offices. Where were they?

Mr. Warnke: They were right there on Connecticut Avenue. They were one block of Connecticut between K Street and H Street.

Mr. Ross: K and H. One of those buildings there.

Mr. Warnke: That big building right across from the park.

Mr. Ross: Farragut.

Mr. Warnke: Yes. Mostly occupied by Hogan & Hartson. We had the top floor.

Mr. Ross: You probably had a meeting with your partners soon after you came in.

Mr. Warnke: No, before I came.

Mr. Ross: And do you remember much about that?

Mr. Warnke: I think that Carson Glass and Sam McIlwain tended to be quite receptive because they knew that Clark wanted this. I think Tom Finney has his strong reservations as to whether or not I was going to try to take over and write Ralph Earle in. It turned out, I did not, and he and I became good friends.

Mr. Ross: Would you say that Clark, prior to your coming in, was the

dominating figure?

Mr. Warnke: Oh, totally. The only one who had a streak of independence at all was Tom Finney, and he was quite a bit younger than me.

Mr. Ross: Yes. He was the young Turk. What, in the first quarter of the time -- you see I'm trying to just get you into that period -- the first 3 months after you came into the firm, what did you do? What did you do when you came to the office? You'd been in the government for quite a while --

Mr. Warnke: Not very long.

Mr. Ross: You'd been in a very different law firm.

Mr. Warnke: Oh, very different law firm. The first thing I tried to do was find something to do. The one thing that I was quite clear on was that, even if I could have, I would not have taken the clients that I had with Covington & Burling. My relationship with Covington & Burling was a very, very warm and very good one. My leaving had nothing to do with any sort of animosity.

Mr. Ross: They were some of your best friends over there.

Mr. Warnke: Oh, still are. Stanley Temko.

Mr. Ross: Oh yeah. I worked with him because he did a lot of work with Tommy when we were both cigarette lawyers.

Mr. Warnke: Right. Yes.

Mr. Ross: So you were looking for something to do, of course, and a lot of people called you on the phone, and you must have had some choices at the point. What happened?

Mr. Warnke: Well, a couple of firms, one that Clark had done some work for in Illinois, and he thought that this could develop into a good plan. So, Murray and I went to Toledo and met with the then-new general counsel, a fellow by the name of David Ward, and we hit it off. So that Owens Illinois became a very good client of mine.

Mr. Ross: What did you do? Antitrust?

Mr. Warnke: Antitrust, anything they wanted me to do.

Mr. Ross: I'm going to go back a little bit and talk about certain aspects of the time when you were in the Department of Justice and you were working with Bob McNamara and other --

Mr. Warnke: Department of Defense.

Mr. Ross: Department of Defense, pardon me, working with Bob McNamara, and I've been looking at some books in that area, some of which mention you, and I wanted to start out reading you out of the book, but I will do that next time, because I didn't bring it.

Mr. Warnke: What book is that?

Mr. Ross: It's a book by Doris Kearns, now Doris Kearns Goodwin, and she, as you know, was hanging around and taking notes, and she has a long quote -- she claims that her reportage on what Johnson says is virtually verbatim because she took shorthand and she always wrote her notes up right afterward.

Mr. Warnke: She was very close to Johnson.

Mr. Ross: And very close to Johnson. And there's a lengthy quote in which Johnson is saying things about a number of people, including you, which are not complimentary.

Mr. Warnke: He didn't know me.

Mr. Ross: Of course he didn't. And, in any event, that would be a good starting point next time for your comment. There are two other figures that I wanted to ask you about and see if you will pick up on them. I'm interested in Dean Acheson's role -- after he was out of the government, he was just a private citizen, and with particular focus on the Vietnam War and the Presidential office's role in that war, and you must have at least indirectly been aware that he was around.

Mr. Warnke: Yes. He was one of the Advisory Committee that Johnson had from the Vietnam War.

Mr. Ross: And apparently, although Johnson didn't take his advice, he had many opportunities to offer it because of his position. He was not a person at that time that even a President could even exclude.

Mr. Warnke: He was impossible to exclude.

Mr. Ross: Do you have some recollections of any face-to-face involvement with Acheson during that time? Of course he'd been your senior partner.

Mr. Warnke: Not at all.

Mr. Ross: Just because of the way things were set up structurally?

Mr. Warnke: That's right.

Mr. Ross: In terms of indirect information, I know you were absorbed in this, talking about it a great deal, do you have any thoughts on Acheson's role or how he fitted into the mosaic?

Mr. Warnke: Well, he was obviously a very senior man, and I think Johnson had a lot of respect for him. Dean started off being very thoroughly in support of the war, and as I

recall it, he became quite disenchanted. There was a period -- I'm trying to remember -- there was some group with which he was connected that looked to the war back in 1967 I guess it would have been.

Mr Ross: I think that's about right.

Mr. Warnke: And all of the sudden he became totally disenchanted. He and Clark had a fairly good relationship. Clark had consulted with Dean when Clark left the Truman Administration to go into private practice, and Clark told me that at that point, Dean said there was no way in the world they could start a new law firm. There were too many law firms in Washington already, and what he ought to do was come with him, and Clark ignored that advice.

Mr. Ross: Probably wise. He wasn't a Covington personality was he?

Mr. Warnke: He was not.

Mr. Ross: He wouldn't have fit in well with John Sapienza.

Mr. Warnke: Newell Ellison was very much in favor of it.

Mr. Ross: George Ball was Undersecretary of State who was mentioned, with Acheson and others, as being sort of the peacenicks, the people who were trying to figure out a way out that would give the President some cover and would be tolerable to him. Did you have any dealings with -- you must have had dealings, of course, with the Department of State.

Mr. Warnke: Oh, yes.

Mr. Ross: Was Paul Nitze involved in any prominent way?

Mr. Warnke: He was. As I recall it, though, he had left fairly shortly after I became Assistant Secretary of Defense, and I think was replaced by Nick Katzenbach, so I had more to do with Nick than I did with George. But I did have some contact with George. My

principal contact there was Chip Bohlen. Chip, I think, was in charge of political and military affairs, so he was the logical point of contact.

Mr. Ross: What did you think of him?

Mr. Warnke: Very highly. He was very, very bright. Didn't have a strong opinion one way or another about the rightness or wrongness of the Vietnam War, but was very realistic, and a very bright guy.

Mr. Ross: Who was the -- refresh my recollection -- Dean Rusk was Secretary of State.

Mr. Warnke: That's right.

Mr. Ross: During the entire time you were in the DOD was he the Secretary?

Mr. Warnke: I believe so.

Mr. Ross: During the entire time that you were in DOD, the Secretary of State was a man who was a strong supporter of the war.

Mr. Warnke: Very strong supporter.

Mr. Ross: And so you had the interesting situation of McNamara who had become disillusioned and more and more disillusioned, and the two principal advisors to the President at that point -- nominally at least of the Secretary of State and Defense -- were on opposing sides on --

Mr. Warnke: Bob, of course, was -- he didn't become a strong opponent of the war I would say until he left the Department. Well, basically, it would have been the fall of '66 when we wrote a memorandum -- I don't know whether that memorandum is available -- but it was a memorandum to Johnson, and I worked with Bob on it, and that's what got Bob to be head of the

World Bank, because Johnson was appalled that he was not a strong supporter of the war.

Mr. Ross: When he found out, in other words.

Mr. Warnke: Yeah. Basically what the memorandum said is that, pretty much what I had said before, that we had a successful occupation of the territory of South Vietnam, but as far as creating the government was concerned, we couldn't do it. It was nation-building, and I don't think anyone has ever been successful at nation-building. I remember talking to Hubert Humphrey after he had been defeated for President talking about nation-building and how he is totally convinced that we are in the right on Vietnam and that we could in fact create a successful country, but he became totally disillusioned.

Mr. Ross: I was going to ask you about Humphrey in a little bit -- why don't I do that right now. One of the more popular issues -- at least at one time -- was question Humphrey's position on the war before his Presidential campaign and then during the campaign, and I'm not sure of this, but that Humphrey had come to your position on the war by this time in effect, but he didn't say so.

Mr. Warnke: That's right, because he had this commitment from -- he had made a commitment to Johnson that if Johnson took him as his Vice Presidential partner that he would not oppose Johnson's policy. I don't know that, but it's entirely consistent.

Mr. Ross: I was going to ask you whether you had any thoughts about that.

Mr. Warnke: I know he had strong reservations about the war, because from time to time he would call me.

Mr. Ross: That's Humphrey?

Mr. Warnke: Right.

Mr. Ross: Let me ask you sort of a difficult question. Do you think that Humphrey would have been successful in his Presidential bid if he had opposed the war?

Mr. Warnke: I think there's a good chance he might have been because really I thought that he was winning until Johnson backed off of him. And I think if he had been a strong opponent of the war, people would have realized why Johnson backed off of him.

Mr. Ross: Well, we'll probably come back to the war, everybody does, but I'd like to go now into some things that, as I said, we haven't really gotten into very much. You have really had two careers -- you can argue with me -- one you were a very important government official at a very critical time in several jobs, at least three.

Mr. Warnke: Right.

Mr. Ross: And indeed in the disarmament field it might be said that you were one of the two or three key figures, and at the same time you had a long, quite long and very successful, experience in private practice. I have not, and this is not said critically of you -- it's said to stir you up a little bit, I've not gotten a sense about that practice at all. You obviously enjoyed lawyering very much.

Mr. Warnke: I did.

Mr. Ross: And you were successful at it, and it's a high pressure, stimulating, interesting career all in itself. But you said a couple of things that suggested to me that your main eye was on government service.

Mr. Warnke: I came to Washington because I was very interested in getting a job in the government. I didn't want to get one right away -- I didn't have any money -- Jean and I had gotten married -- she had promptly gotten pregnant.

Mr. Ross: She got pregnant. You didn't have anything to do with that.

Mr. Warnke: But we had had our first child 9 months and 10 days after we were married.

Mr. Ross: That's pretty good.

Mr. Warnke: We were married on the 9<sup>th</sup> of September, and Maggie was born on the 19<sup>th</sup> of June.

Mr. Ross: That's perfect.

Mr. Warnke: So we had a family. I was interested in getting enough money so that I could get a good job in the government and still be able to support my family well. I happened to go with what was then Covington, Burling, Rublee, Acheson and Shorb because I was top of my class at Columbia, but I had no difficulty getting a job, and I had gone through the New York firms Sullivan Cromwell, Simpson Thatcher, and none of them appealed to me. I talked with Walter Gellhorn and Harold Wechsler, who were key professors at Columbia, and they both knew Dean Acheson, so they suggested I come down to Washington.

Mr. Ross: You were talking about your interests when you came down from law school in government and in public life and how you felt that you needed to establish yourself. When you got into -- let's talk about the Clifford, Warnke, Glass period. That was eight years.

Mr. Warnke: Let's see -- I went in there in '69 and left in '77.

Mr. Ross: Right, because you went to the ACDA.

Mr. Warnke: Right. And then came back.

Mr. Ross: Of course, although it was a different firm, at least it had a different

name.

Mr. Warnke: Well, it had been Clifford, Warnke, Glass, McIlwain and Finney, then Carson Glass retired, and Sam McIlwain semi-retired, and Tom Finney got ALS and died.

Mr. Ross: Oh yes, that's right.

Mr. Warnke: So that when I came back the name was changed to Clifford & Warnke.

Mr. Ross: Was your practice -- what I called two firms and realize they weren't two firms in an important way -- essentially the same or was it different, and how can you describe it? Characterize it.

Mr. Warnke: I did a lot of antitrust work, both with Covington & Burling and with Clifford & Warnke. Not with the same clients because I felt very strongly that I was not going to want to take clients away from Covington & Burling. So I had done an awful lot of work for the American Can Company when I was with Covington & Burling and a lot of Food & Drug work, Pfizer, Merck.

Mr. Ross: Food & Drug work is quite different. I've done both, the antitrust, generally speaking, and I want to get you involved in this a little bit -- get you thinking about it -- were you primarily in what's called an agency practitioner before the FDA or were you primarily a litigator, or both?

Mr. Warnke: Both.

Mr. Ross: You did both.

Mr. Warnke: I did both.

Mr. Ross: So you would file NDAs and --

Mr. Warnke: See, when I went to Covington & Burling, the one they assigned me to work with was Tommy Austern. Did you know Tommy?

Mr. Ross: I knew him very well.

Mr. Warnke: And Tommy was, I think, one of the original Food and Drug lawyers.

Mr. Ross: Yes.

Mr. Warnke: So I entered that through Tommy. He had become a very good friend of Bill Stolk, and Bill Stolk became the head of the American Can Company, and the principal lawyer for the American Can Company was Whitney North Seymour who was, I think, with Simpson, Thatcher & Bartlett, I believe.

Mr. Ross: That's correct.

Mr. Warnke: Basically Tommy took the client. The one time that Bill Stolk and Whitney North Seymour didn't get along very well. Whitney said at one point that it is too bad that Bill Stolk wasn't a college graduate because if he was he might be the head of the American Can Company.

Mr. Ross: You never made that mistake I'm sure.

Mr. Warnke: So, Bill Stolk was a very good friend, and very good client, and I did a lot of work for the American Can Company. One of the things was that Tommy didn't like to litigate. Tommy was a great speechmaker, but Tommy had to prepare everything in advance. When he gave an extemporaneous speech it was a memorized speech, and getting up in court was very, very painful for him. As a consequence, I was sort of a good complement to Tommy. He had the business, and I was able to get up in court.

Mr. Ross: And he needed you for that reason.

Mr. Warnke: And we became good friends. And we became very good personal friends.

Mr. Ross: He had a very quick mind.

Mr. Warnke: He had a very quick mind. He had the reputation of being a real tyrant and very difficult to work for. I found him a total breeze, a very sweet, easygoing guy.

Mr. Ross: Well, he may have been to you, but there were some of the rest of us who'd say the sandpaper --

Mr. Warnke: He could be very tough in dealings.

Mr. Ross: Were you able to go to Tommy's memorial service that was held at the Synagogue?

Mr. Warnke: I did.

Mr. Ross: The Dean gave a little talk --

Mr. Warnke: Erwin Griswold.

Mr. Ross: -- gave a little talk about him which I thought was delightful.

Mr. Warnke: It was delightful. Jean's reaction was that nobody had to make a speech about Griswold when he died because he had said it all. It was a very good speech about Tommy. It was Tommy through the eyes of Erwin Griswold.

Mr. Ross: Well, of course, yes. I can understand that.

Mr. Warnke: But I thought it was very good. I thought the entire service was very good.

Mr. Ross: Gene Littman, who was a very close friend, and I worked with at the ACLU for many years was, I thought, excellent in talking about Tommy, including the fact that

he never came to the service -- or practically never did.

Mr. Warnke: That's right.

Mr. Ross: I know you may think these are too detailed, but were you more of a Sherman Act person or a Clayton Act, or God help us, even the Robinson-Patman Act person?

Mr. Warnke: I did an awful lot of Robinson-Patman Act work.

Mr. Ross: Right.

Mr. Warnke: I'd never even heard of the Robinson-Patman Act until I came to work with Tommy, but he had a lot of Robinson-Patman Act cases, and I would say that a good chunk of my practice was Robinson-Patman Act.

Mr. Ross: I see. And over time, that must have fallen off because --

Mr. Warnke: Oh, when I got back after --

Mr. Ross: It just almost went away.

Mr. Warnke: It was gone.

Mr. Ross: All your expertise?

Mr. Warnke: All my expertise.

Mr. Ross: Did you ever try a major jury criminal case?

Mr. Warnke: Yes. With the American Can Company. Oh, no, no, it was for the Institute of Shortening and Oils, Inc.

Mr. Ross: Right. Tell me a little bit about it.

Mr. Warnke: It was a lawsuit brought in California, and it just charged that some of the big firms in the Shortening and Oils field were monopolists and also were conspirators and therefore violated the antitrust laws, and the case was tried for a long, long time. The grand jury

was up for six to eight months. So I spent an awful lot of time in California in those days, and I represented the Institute of Shortening and Oils, Inc. and also Proctor & Gamble. How I could do both, I don't know -- would be difficult today -- but back then I could do it.

Mr. Ross: It was difficult.

Mr. Warnke: And the case went to trial, and at the end of the government's case, we moved to dismiss, and the judge granted the motion, so it never went to a jury.

Mr. Ross: That's a triumph. You must have had a good judge. Most of those federal judges didn't like to do that.

Mr. Warnke: I've forgotten what his name was, but he was quite independent and, obviously, a very good judge.

Mr. Ross: You remember the government prosecutors? That was a government case?

Mr. Warnke: Yes.

Mr. Ross: Was he a good prosecutor?

Mr. Warnke: A very good lawyer. In fact, everybody was startled when they dismissed the case.

Mr. Ross: He didn't expect that?

Mr. Warnke: I didn't expect it. None of us expected it.

Mr. Ross: I hope the client was duly grateful.

Mr. Warnke: The client was absolutely delighted.

Mr. Ross: During this time, this case was in what law firm?

Mr. Warnke: That would have been Covington & Burling. **(Tape Ends)**