

Oral History of Joseph L. Rauh, Jr.
Conducted by Robert S. Peck
1967-1970

[Side A]

Mr. Peck: This is the 7th, and we're continuing the oral interview with Joseph Rauh. When we left off, we were talking about the 1968 presidential campaign. Before we do that, there were a number of cases that you had in 1967 in the court of appeals and I didn't want to just skip over them entirely. Most of these had to do with railroad work rules, and they were appeals from NLRB decisions, and all very similar kinds of issues coming up.

Mr. Rauh: Weren't they more to do with a special board set up under the Railway Labor Act, the Arbitration Board under the Railway Labor Act? I think they were. That was probably the biggest dispute on featherbedding that has occurred in this country. What had happened, really, was when you had coal-burning engines, there was a real need for a fireman! The guy had to throw the goddam coal on the fire! But when you had a diesel engine, a fireman had really nothing to do. When we got hired by the Brotherhood of Locomotive Firemen and Enginemen, I knew this and I was troubled by it. I was pleased being hired because I was hired by a guy I broke down in cross-examination in a civil rights case. Gilbert, the head of the Brotherhood of Locomotive Firemen and Enginemen, had a union that didn't admit blacks. In fact, they discriminated against blacks. We had cases against them, and I really broke him up a little in cross-examination in that set of cases. He came in to see me one day and he said, "I'd like you to represent us." I said, "That's awful nice of you, aren't you mad?" He said, "Sure, but you're the best lawyer in this country, the way you showed us how wrong we were on the discrimination thing." I said, "Is that cleaned up?" and he said "Yeah." So we went ahead and

represented them.

The public interest there was very difficult to find. You had really two competing thoughts: one was you ought not pay people to do nothing, you can't justify that; on the other hand, there were a lot of old firemen who couldn't be retrained and needed jobs. So I was always trying to think of a way, what's the right public interest solution? Obviously it was, don't hire any new people, if they were very young and could still be retrained, then maybe we should get rid of them, but don't throw an old guy out on the street. We always had that kind of a goal, but it didn't work. That was really a union thing where neither side was making any sense. The railroads' lawyers were very good lawyers, and they really pummeled us pretty badly. Now, of course, the fireman, conductor, brakeman, the jobs are all kind of intertwined. The union went too far in demanding new people on the railroads to do some jobs that weren't any good. A fireman might really just ride and not work more than 10 minutes on a 6-hour day, 8-hour day, on a job that the engineer could have done himself. We had a pretty impossible situation. We really weren't listened to by either side. I sympathized more with the workers in that situation, the older workers. It never really did work out well. In the end, there's no such union anymore. It's all some big united transportation union. I don't think they have any special firemen or brakemen. It's all condensed; where they had three or four in a crew, you can do it now with one or two. Maybe you need an engineer plus a general man, a fireman, a brakeman, conductor, everything on the freight train.

Mr. Peck: One of the cases struck me as pretty interesting. In that case involving the Firemen and Enginemen, the union and its president had been fined by Judge Alexander Holtzoff for failing to terminate a strike, despite the fact that they had done a lot of

things to try and do so, including telegraphing the strikers and all. Among the issues that came up to the D.C. Circuit, in which you represented them, was an accusation of bias in the judge.

Mr. Rauh: We did have an accusation of bias, but it was thrown in, I think, a good deal to temper the – what happened there was that they struck and the other side knew they were going to strike, so Frank Shea of Shea & Gardner had the papers all ready to go to Holtzoff. I had a fever but I handled it. We had a hearing all day. We were in violation, but we kept saying, "All we want is the normal procedures for protecting the workers, that they're not going to be discharged if they go back to work." Holtzoff was just so rough with us. On Sunday afternoon, he had put the fine so much on Saturday, Sunday afternoon when we weren't back at work, even though we had been ordered back, Shea went to his apartment and they called me over there, it was in the Broadmoor Hotel, and Holtzoff was livid with rage. "My orders aren't being obeyed!" he said. We said, "Your honor, we're simply – ." I think I got the words "we're simply" out. What I would have said, "trying to get the rights that always go with these returns to work. He said, "You haven't any rights at all, I mean, I've ordered you to go back." Well, there's a lot in that. It was pretty ugly. Now Holtzoff is a pretty ugly fellow. He could be quite rough on you and he was in this instance. I was feeling quite sick that day, but I got sicker as the case went along [laughing]. Anyway, we finally did go back and in later life, the Assistant Secretary, who had really, oh, beaten the heck out of us in the public, by the name of Jim Reynolds, and I became best friends. Mr. and Mrs. Reynolds and Olie and I used to travel together and spend our winter vacations together. We used to laugh about how he cussed us out for not going back to work, but that was his job. My job was to try to make some sense out of what we were doing.

That was a very bad situation, that featherbedding. I think it's probably the

worst example of featherbedding in the country. Maybe the other one is just as bad. When the printers used to make the newspaper, print an ad, set up an ad even though the ad already had been set up and could be just inserted, they'd have to print it and then they'd throw the new one they printed away. That was absurd, too. I think we and the printers, the firemen and the printers really had the worst featherbedding in the country. Maybe we were wrong to do it, but I always thought we could have some influence in trying to get a sensible way out of protecting older men who needed jobs. It's not so different from right now, what Clinton says about making the submarines. These people need jobs. We didn't want older people thrown out of their jobs, so we had this idea that we could persuade people to behave. Neither side had much statesmanship at that point.

Mr. Peck: Also in 1967, you had a case in which you were appointed by the court to handle the appeal for a defendant, Maples, *Maples v. United States*, who had been convicted three different times already for a 1958 homicide. In 1967 you were up in front of the D.C. Circuit one more time. There had been three different confessions in the case and the focus of this hearing was on the first confession, which at that point had been ruled admissible.

Mr. Rauh: Dave Bazelon called me up one day and said, "Joe, we got a real tough situation here on a possibly, potentially insane defendant. It's a lot of work. I don't know that I want to impose it on you. You always take whatever we ask." We're friends, Dave and I, and we were always friends. He's a great, great, great judge. "Do you want to do this?" I said, "Well, it is hard right now. Do you really think it's as important as you made out?" He said, "Yes." I said, "I'll do it." There were many different ways out of executing that guy. I can't remember the ultimate outcome but there was both insanity and there were other ways out of it.

Do you remember exactly what it was?

Mr. Peck: I don't know the ultimate outcome. The D.C. Circuit decision said that because in the latest trial there were new and material facts that had emerged since the police officer had not done the presentment to the magistrate, and took this confession because he didn't think they could obtain a conviction on him. That was the grounds for throwing out this confession. The decision came subsequent to *Miranda*, which had just been decided. It was decided under pre-*Miranda* rules. But I don't know what happened after that. They remanded him for yet another trial.

Mr. Rauh: I can't remember exactly what happened there, myself. I do remember that Dave was very concerned about this guy. He was a very strange character. I walked into the visitors' cell there to see him. He says, "Gimme a dollar!" I said, "What for, Mr. Maples?" and he said, "I want to buy some cigarettes! I'm tired of smokin' this rope!" He had some string there. I didn't know what to do. I didn't know whether I could give him a dollar or not. I didn't know the rules of the prison there. It was in the courthouse, the prison in the courthouse, and so I asked for the guard, and the guard says, "Yeah, he always gets a dollar out of everybody who comes to see him to get a pack of cigarettes!" I gave him a dollar and he got himself a pack of cigarettes. I don't know the degree to which he knew what was going on. Dave was always terribly worried about the criminal process. I've never known a judge to be that caring on the criminal process. The fact that we were friends and he gave me the option of doing it, he didn't say, "Joe, you gotta take this." He was very nice about it. I know that we won the particular case of the various *Maples* cases that I argued, but I can't remember what the ultimate outcome was.

We're not very good criminal lawyers, but the principles here were pretty easy to defend and I think Dave sat. I've never been sure how this works in the court of appeals. Lots are drawn for how they set panels up. But every time that Dave wanted me to argue something, he was there. Now I don't know whether the panel had already been chosen or what, because Dave was there in the courtroom and he was giving the prosecution a pretty hard time. I would say his argument may have been better than mine.

Mr. Peck: He ended up writing the opinion, I think.

Mr. Rauh: I think so, too.

Mr. Peck: Early in '68, relating to the election, you represented Eugene McCarthy in a D.C. Circuit case appealing from an equal-time ruling of the FCC.

Mr. Rauh: I remember that very well. I think [Lyndon] Johnson had a press conference about New Year's Eve with all the networks. The question was whether they had to give Gene McCarthy equal time under Section 315 of the Federal Communications Act. The FCC said that they didn't have to because he wasn't an announced candidate.

Mr. Peck: It was Johnson who was not –

Mr. Rauh: Johnson was not an announced candidate. I thought to say that you're not a candidate until you announce, when you're so obviously a candidate, as he was at that time – strangely enough, he didn't run – but at that particular moment he was so obviously a candidate. I brought the appeal from the ruling. It was a funny courtroom. The courtroom was full, because of the election thing. Here's Gene challenging Johnson. They had to get extra tables for the lawyers on the other side. Here was the regular table for the plaintiff and I was sitting there by myself. Then on the other side they had to bring in extras. Everyone of the

networks had lawyers there. A very nice guy, you may know him, Roger Wollenberg, I think he was a CBS lawyer, argued the case. I still think the case was wrong. You can let Johnson go there with three networks and everything else for nothing, and the guy who was challenging him, there was no question he's challenging him, gets nowhere. We lost. Was it 2-1 we lost ?

Mr. Peck: It was per curiam, so without a dissent.

Mr. Rauh: Without a dissent. I know that Fahy was against me. On the oral argument, I thought that two judges were going to vote for us, and Fahy against us. Who were the two, do you remember?

Mr. Peck: Wright and McGowan.

Mr. Rauh: I know Wright was with us, and I thought McGowan. I really thought I had a good chance of winning the case, but Charlie Fahy was a real hawk and thought Johnson was absolutely right on the war. He was going to go with Johnson, to heck with what I was saying! He was quite rough on the questioning, but Wright and McGowan, I thought, might be with us. They were not. If you wanted to take the technical rule that it's not until you announce, but I think that's a terrible rule. It so helps the incumbent, because he doesn't have to announce and can have all the benefits of the networks and everything else. I still think that case is all wrong, but it's the law of the land. I don't know if that's still the rule at the FCC, that it's the time of your announcement that makes you a candidate –

Mr. Peck: It's now that you're a recognized candidate.

Mr. Rauh: Oh it is? Well I did some good maybe!

Mr. Peck: But they also exempt if it's a legitimate news event, and press conferences are considered legitimate news events and interview programs are also exempted.

Mr. Rauh: This was not really a regular press conference. This was Johnson sitting around with the reporters for the three networks, a special program. If you were a little radio station trying to get in that room, you would not have gotten in.

Mr. Peck: You had another labor case in 1968 in which you appeared before Wright, Bazelon and McGowan – *Western States Regional Council #3 v. International Woodworkers of America*.

Mr. Rauh: That was for the Woodworkers. They're a west coast lumber union.

Mr. Peck: Yes. This involved a lockout against two employees and whether there was a multiemployer bargaining unit.

Mr. Rauh: If we had won that case, it would have broken some employers. It was a very big deal. There may only have been a few people involved in the particular case, but it involved a great sum of money if in fact there had been a lockout. I think that affected them, that it might have been a bonanza for our side. We did have a lot of difficulty with the case. We represented the Woodworkers for some years out there. They had a lawyer there who thought we were pretty good, so we represented them. It was a good, clean union – one of the really democratic ones. I was very impressed with the guys.

Mr. Peck: Before we leave this time period, the only other event I wanted to ask you about was the Fortas nomination for Chief Justice.

Mr. Rauh: That was a kind of a strange thing that happened there. In the first place, people have to realize that none of the things that ultimately got Fortas were the big events. What you had was a filibuster by the Republicans because of the views of the Justice.

[Sen. Strom] Thurmond said, and I now paraphrase, something like, "Of course we had to use any method we could – this man was so bad, so far to the left that we had to do whatever we could." And Senator [Robert] Griffin of Michigan led a filibuster. They had more than the 34 that they needed. The thing was just hopeless.

Paul Porter called me one day and started to cuss out liberals. "Why aren't you doing more for Fortas?" I said, "It's pretty hard because all they need is 34 votes and you need 67. There's a big difference there." Secondly, Fortas had done one thing that he shouldn't have. This was not the thing that got him, ultimately his relations with that guy, the subway man, Wolfson, whatever it is, we can get it right – it was not that. This was that he was taking \$15,000 from American University here for talks, and money was being put up by outsiders for those. That was hurting Abe. Essentially that was a battle over whether you could deny the guy a seat because of his views. I had an argument with one of the loveliest men I've ever met in my life, Phil Hart, Senator from Michigan, who argued with the Republicans that you couldn't use the views of the people, that was not relevant, if they were honest and bright, why, you should confirm them. I said to Phil, "Brother, you're gonna eat those words someday. Of course you can consider what the guy's views are." When we went after Haynesworth, Phil suffered the tortures of the damned before he voted with us because of what he had said during the Fortas thing in trying to say that they couldn't consider Fortas's views. Of course, that was the basis of the filibuster – it was really that. Anyway, I did argue with Paul Porter that they had not made a very strong case and we were having trouble. The liberal movement tried to get Abe through. When it was clear that we couldn't win because of the filibuster, see they didn't defeat Abe, they just filibustered him.

Mr. Peck: Right.

Mr. Rauh: A lot of us got word into Johnson, appoint Phil Hart. They'll confirm Phil Hart before they go home and you'll have the Chief Justice. Johnson was in a terrible frame of mind. This was '68. The Vietnam War is driving him up a wall. He really doesn't know whether he wants Hubert to win or not. I guess he was sore at everybody, including us, the liberals who were supporting Fortas, for not doing more. And I don't think he ever seriously considered the idea which must have gotten through to him. There was a way out of this dilemma and that was the appointment of Phil Hart, who was a good lawyer, beautiful character of a human being. I don't even know if Phil wanted it, but he was so perfect a candidate. You would never have had to consider Burger or anything else. But Johnson was in no frame of mind to take good ideas from people, and he didn't appoint Phil. Then he had to ask Warren to go on, and then when Nixon got in, he appointed Burger.

Mr. Peck: We had some more of the Firemen-Enginemen cases in '69, and actually Burger was on the Court on a few of those. I think the next thing that I wanted to ask you about was the Quaker Action Group cases. The first one that you argued – there had been one in '69, but in 1970 was the one that you first argued, as the case kept coming back to D.C. Circuit.

Mr. Rauh: The first one, I think, was argued by Bill Dobrovir, who would later help me when I took it over. We went in front of Judge Hart. He didn't think much of us, but they had no case. What it was, I've always been told this, I have no proof of this, that Johnson said to Marvin Watson, his assistant – this may just be a sort of a situation rather than anything he actually said, "Darn it, get those peace freaks off my front lawn!" What he meant by

that was that we had, the anti-war movement was picketing in front of the White House, both on the sidewalk on Pennsylvania Avenue and over in Lafayette Park. It went over to Interior, and they set up a rule that you could only have so many people picket.

Mr. Peck: 100 in front of the White House and 500 in Lafayette Park.

Mr. Rauh: We brought this suit against that. I took the chief of the Secret Service's deposition for a whole day. He finally admitted that there was no safety aspect. See, this was on a safety ground. There was no safety aspect. I can't remember exactly how he put it, but he finally gave the case away. Hart wouldn't give us the case. I think we had three appeals to the court of appeals and we won them all. The fourth, finally, Hart gave us 750 in front of the White House and 3,000 in Lafayette Park, am I right?

Mr. Peck: Yes.

Mr. Rauh: That seemed like a fairly good compromise. Hart sure took it hard. Hart would always say, "Mr. Rauh, you can go up again and get me overruled! I know that! But I'm gonna --." He practically was saying, "I'm gonna do what I think is right, not what the court of appeals is doing right. He'd say this at oral argument. How could you argue with a guy who says, "Go ahead, you go upstairs!" He always used to say that! "Look, mister, you can go upstairs and get me overruled again, but I'm not gonna change my view of this thing! I think the President ought to have the right to have this the way, he is in the White House, he wants it, not the way you and your whatever he would refer to us want it." It was a rather easy win. The ACLU dined out on that case for quite some time, always winning in the court of appeals and then having it come back. In the end, it was a victory. I don't know what the rules are today.

Mr. Peck: I'm not sure what the rules are today, either. It was interesting,

because, you know, the 1970 appeal was granting summary judgment to the government, and that was reversed saying that there at least had to be a trial on the facts – some fact-finding. Then he gave them summary judgment again, which is when you went up to the D.C. Circuit again in '72, and D.C. Circuit sent it down and said, this time we really mean it! That's when he came up with the 750/3000 rule, but you went back to the D.C. Circuit on that one more time, in 1975.

Mr. Rauh: We asked for more – did we ask for unlimited?

Mr. Peck: There were cross-appeals. Because the government appealed, you appealed as well. In that 1975 decision, Leventhal wrote the opinion, saying that the sidewalk in front of the White House and in Lafayette Park are unique First Amendment forums, and therefore while some security may be justified, whatever enforcement there is, the rule has to be uniform and nondiscriminatory. They found that 3000 was too low, because the park could accommodate a lot more people than that, and that the 750, while a reasonable rule, should not be an absolute rule, either. They also gave the government, said it would be okay to have special rules as to rush hour and as to the amount of noise that could be made.

Mr. Rauh: I always conceded that they had every right to a traffic limitation, if the traffic required it. We felt that they could limit it for security and traffic, and on security, Rowley [Chief of the Secret Service] had pretty much given it away because of the fence. I don't remember what his title was, director general of the Secret Service or something like that. I'd say, "General, couldn't you raise the fence a couple of feet?" I once said, "Couldn't you electrify the fence?" He said, "Oh, that would be very undemocratic!" I said, "Not letting people parade is pretty undemocratic, don't you think?" He was a pretty good scout, he'd say, "Yes, we had to weigh a lot of things." He knew that there was really no security problem. Johnson would come

to the window and look out! I mean, if there was any security problem, that was inviting trouble! I think by this time Johnson was so tired of the thing. The trial was very interesting. I remember one day we were going all day and all evening and I finally was pretty tired. I wasn't as old as I am now, but I was about 60-odd. I said to the judge, "Don't you think, sir, we ought to stop until tomorrow?" He said, "I thought you wanted to get this over with. I thought you have always been banging on me for no trial." He was really pounding on us, because we had so criticized the fact that it would take years to get to trial. He said, "I thought you wanted a trial!" This was at 10:00 at night. Finally, he had to stop. The court attaches were getting a little tired.

Mr. Peck: We know from *All the President's Men* and the books from the Watergate era that Nixon was also very, very disturbed by this thing out there. He had students who would infiltrate, trying to get information as if this were a conspiracy of the Democrats. On one occasion, he had his student spies, who were in there, who had been hired by the Committee to Re-Elect the President, signal when they saw some drugs around, and there were some drug arrests there. Did that ever come up?

Mr. Rauh: I do not recall that.

Mr. Peck: It was during the course of the case that that happened.

Mr. Rauh: I do not recall that. I'm not saying it didn't happen, but I have no recollection of being told about it. I thought I was out of it by the time that we got the Leventhal opinion after we got the Hart 3000/750 decision. This could have occurred before that.

Mr. Peck: It occurred before that.

Mr. Rauh: I just have no recollection of it.

Mr. Peck: Another case that you were involved in, even though you didn't

argue, that there were two related cases in 1971 in front the D.C. Circuit in which, it had to do with malapportionment of delegates for the Democratic convention.

Mr. Rauh: The moving figure there is a man who is now a fellow in television, I think in CNN, Ken Bode. It involved the question of who could vote for delegates. I do remember what Bode thought, and he was an expert in this, that by limiting the voting for delegates to the party, you would get a more liberal convention. We fought for that in two cases. I won one case in the district court and lost it in the court of appeals. Actually I didn't argue that because I was away. John Silard argued it and lost in the court of appeals.

Mr. Peck: That was *Georgia v. National Democratic Party*.

Mr. Rauh: Those were questionable cases. I think we may have been right legally, but the court just didn't want to get involved. They didn't say there wasn't standing to sue, but they weren't very happy with getting into the political arena there.

Mr. Peck: I guess this is the time to talk about Jock Yablonski and Mine Workers.

Mr. Rauh: It was 1969, in May. Ralph Nader came to see me and told me that they were gonna make a fight for the control of the Mine Workers against a dictatorial president named Tony Boyle. He said, "My interest is in union democracy, but primarily it's in black lung, that Boyle has done nothing about black lung or about mine safety." There had been a big blow-up, I think, at Farmington mines. Boyle had gone and said that the company had done everything that it could to save lives. He was a real company whore. Nader took over, pretty much got into the thing, and he and Jock Yablonski had agreed that they were going ahead. They wanted a lawyer that would not be considered anti-union – pretty hard to consider me anti-union, since I

was counsel to the Auto Workers, I think, at the time and represented a good deal of unions – so I was a pretty good guy if I would do it. Nader came and he asked me. We talked for quite a while about all that was going to happen. I said, "Why don't you send Yablonski around. We'll talk it over." So Yablonski came over. He said, "I'm gonna make this fight. The Mine Workers have been good to me. I've had enough money to educate my boys – they're both lawyers – and my daughter is a professional in the sociological field. I want to do something here. I'm gonna run." I'm not exactly certain what words he used then, but it was that there was a danger to his life. I don't remember exactly how he put it, but I thought that there was something there. I said, "Okay." He couldn't pay. He did put up some money for expenses, but he couldn't pay us a fee. But under Landrum-Griffin, you could get paid. I said I'll take my chances that we'll win the various cases that we'll have to bring.

We announced a press conference, in the sense that we invited some people to the Mayflower to a room there. The thing was so rough on Boyle beating up people, that we had both Chip and Ken Yablonski at the door of this room, and they only let people in who we had invited. The networks were there, Frank Porter of the Post, and Jock made his announcement. Nader was there, but he was not sitting, he was not sitting with us. It was just Jock and myself. Jock, in a scratchy voice that he had, read a statement, most of which Nader had written and I had modified somewhat. Jock finished that, and then there were questions. Frank Porter, a very fine reporter for the Post, said, "Well, Mr. Yablonski, there's one thing I can't understand –" and he read him an introduction that Jock had made of Boyle only four months before in beautiful terms about how wonderful Boyle was, and said, "How can you explain running against this man after what you said there, a few months ago?" Jock looked at him and said, "Well, let me tell you

something, Mr. Porter. This is what John L. Lewis always used to say and I think it's right - 'when you be an anvil, be very still; when you be a hammer, strike with all your will,' and I'm a hammer." Boy, I said to myself, I hadn't said "boo" up until then, I said to myself, "Boy, do we have a wonderful candidate here." That was the best answer I have ever heard from a witness. The press reported it, so they found out, Boyle found out about it the same day. Boyle dismissed him from his job. He couldn't dismiss him from being a board member, I don't think, but board members had jobs, too, and he was in charge of the political arm, labor's non-partisan league. Boyle fired him and I think the first suit -

[Side B]

Mr. Rauh: One was to be able to send out literature. There was a statute that permitted that. One was because they fired him from his job. And there were two others. There were four suits in all. We won them all in the district court. I can't remember exactly how many of them went to the court of appeals. In one of the cases, the ACLU backed our side of the thing. There was some debate, I understand, in the Labor Committee of the ACLU. They were a little worried that we might be too anti-union because we were anti-this guy. In the end, they came around and they supported our position, I think, in all the cases.

I've got the third one now. We asked for equal treatment from the Mine Workers Journal, and we got that. Then there was a fourth one in front of Judge Hart where we asked for certain things about the election. So we essentially won everything on the legal front.

It's too much to go through all that happened. This much I suppose I should say: We had the election in November and December of '69. They counted us out. Then the question was whether we were going to continue to fight. If you'll look on the wall there, at the left hand

side, the third one down is me and Jock Yablonski. That's me and Jock Yablonski at the I call that the murder picture. We're at the Labor Department getting ready, or filing, our complaint under the crooked statute part of the Labor Management Relations Act, the LMRDA. That picture apparently was shown to Boyle or it was in the papers and he decided to go ahead. They had had a contract out for Jock's murder, but the guys came around one day and lost their nerve. Then they withdrew the contract. But after that picture in December of 1969, the contract was back on, and on New Year's, I think it's the day before New Year's Eve or New Year's Eve day, that day or the other, or the first day of the next year, they killed Jock, his wife and his daughter. The murder was not discovered for several days. There had been some functions that Jock would ordinarily have been at – political functions – as the head of the Mine Workers in Pennsylvania; he was a big deal. His son Ken noticed that he hadn't appeared and everything. He got worried, telephoned, and no answer. Then Ken went to the house. It was about an hour from where Ken lived. There was a terrible stench. He rushed in, rushed upstairs and there was his mother, father and sister dead. He, of course, called the police. Chip called me. I was at the Federal City Club having lunch with Ben Cohen. Chip called me to the telephone and said my father and mother and sister have been murdered. I said, "Where are you?" I started to run for his office, it was about three blocks. I never even thought of telling Ben I was leaving. He never knew what happened until he heard it on the radio, I guess, or television that Jock had been murdered. We got on the plane to Pennsylvania – Pittsburgh – and there were a lot of reporters and police there. Chip, his wife and the boy were all together because they were scared to leave. They didn't know how widespread this thing was. The press all asked Chip to say something and Chip was just beyond himself. So they came to me, "Did I have any thoughts about the murder?"

I said, "Well there isn't any doubt. It's an election-connected murder." I didn't say Boyle had him killed, which we later proved. I said "It's perfectly clear that this has connection with the election. There's no other possibility." They said, "So you're saying the union did it? I said, "It's an election-connected murder." I decided to say that on the plane down, and I just stuck to that.

We were driven to the house, the state police were all there, the FBI was there, and they treated Chip and me, I guess, as almost suspects. I mean, anybody could have done it, we each had to answer questions, where we were and so forth.

The incredible story is that Jock reached up from his grave and caught his murderer. What happened was that when they had the abortive attempt, when before the election they came to Jock's house, there were two of them – they came to the door, they lost their nerve and said that they were miners and said they wanted to know where they could get employed. So Jock told them what to do, where you'd go to try to get a job, and they left. Jock said to Ken, who happened to be there, "Ken, there's something fishy here. These guys didn't look like they wanted a job in the mines. Let's walk into town and just see if there's anything we can see." They walked into town and they saw an Ohio license. Jock wrote it down and when he got home he wrote it on a yellow pad that was in the living room, the Ohio license number so and so. Either the FBI or the state police came across that. They called the Ohio license bureau. They got the name of the man whose car it was, and that was one of the murderers. They went up the line to get to Boyle. This was a man named Paul Gilley, in whose name the auto was registered. His wife was the daughter of a UAW [UMWA] official named Huddleston. Huddleston finally confessed and brought in the names of the next two in the line up, one of whom was the secretary/treasurer of District 19, a violent Tennessee district. Then it got to Boyle. They got

confessions each way and they, as it went up, it was a confession by Gilley, his wife, Huddleston, Huddleston's two – no, then they arrested Huddleston's two bosses – and then something happened that I'd say was interesting. These two were indicted for the murder without bail of Jock and his family. Boyle wanted an opinion from his lawyers in the Mine Workers that he could continue to pay these two despite the fact that they were in jail without bond on a capital offense for which they had three lie detector witnesses of their participation. A wonderful prosecutor, now one of my close friends, Dick Sprague, had these people there. We were working together. He had taken depositions from Gilley, Mrs. Gilley and Huddleston implicating the three of them, or at least two of the three had done that, implicating them and telling the whole story. He was getting ready to prosecute. Well Boyle asked his internal lawyers, especially a fellow named Harrison Combs – Combs's family was a big family in the Mine Workers – to give him an opinion that he could pay these two. The guy said, "I can't. I don't think you can legally pay them under the circumstances." He went to his lawyers who had been handling the cases I told you about earlier – Williams & Connolly – and they gave him the opinion. In the opinion, they analogized the situation to a worker on vacation or on sick leave, that they could pay a worker on vacation or sick leave, and they could pay him. Boyle gave that opinion to the head of District 19, who was then playing ball with the enemy, and said take this to X and Y (their names escape me, but we can put them in), and they will be very happy with the news. I know they'll be very happy with the news. This guy took it to the prison where they were awaiting trial and gave them the news. The reason we know that is when Sprague broke this fellow, he asked him about when Boyle had given the opinion of Williams & Connolly to this head of that agency. When the guy made his confession, Sprague knew how much I wanted

to show up Williams & Connolly's performance, so he asked him about this and put into the confession what Boyle had done with that opinion in giving it to him to take to the prison where these people were locked up.

They then convicted these two, turned the head of District 19 around, convicted Boyle. The first time they reversed the conviction; the second time they didn't. Boyle went to jail for life. It's that opinion, among other things, that led me to say Williams had the ethics of a pigsty. That's in the book. When Evan Thomas came around to see me, what he was really trying to find out was if I had any more that I hadn't used. I didn't. I told Thomas exactly what I just said, that that was the most outrageous thing. In the book, which I haven't read, except insofar as the pages that cover me, apparently, [Edward Bennett] Williams claims he never knew that his firm had given that opinion, or something, kind of ridiculous. The guy had a million dollars, which in those days was a pretty high fee, from the Mine Workers for their work for them. Williams had never answered my charges. What he did say was, his answer to my charges was, "Nobody ever listens to Joe Rauh!" That was his answer rather than on the merits, and I pointed that out. I think Thomas, in his biography, was rather fair to our side of that argument. He knows we were right. I think he was not unfair. He apparently says that Mrs. Williams thinks the biggest mistake she ever made was letting him be the authorized biographer. I don't think that's true. I think he was trying to be as honorable and fair as he could, and I would say that he was not unfair to me. But that's roughly the story. If anybody is really interested in the case, there's a very fine book by a man named Trevor Armbrister. He is the biographer of that ship that was taken by the Communists off of China, I think it's in the Ford Administration –

Mr. Peck: Right.

Mr. Rauh: The Phoenix, maybe? He came to see me one day while the fight was going on. He told my secretary, "Tell Mr. Rauh that I'm from the *Reader's Digest* but not to get his hackles up." He walked in and said, "Look, I'm from the *Reader's Digest* but don't get sore until you hear me out." We became great friends and he covered the thing. He was at the trials and everything, and it's a heck of a book.

Mr. Peck: Well, you need to go, so why don't we stop now. You know, I think it might have been the Pueblo.

Mr. Rauh: Pueblo! You got it.

Mr. Rauh: This is paeon of praise to Dick Sprague, who was the prosecutor in that case that sent Boyle to jail for life. We used to discuss the various things. I knew more about the operation of Mine Workers than he did, but he knew more about how to send a guy to jail for life than I did. One day I made a suggestion to Dick about something he does. He looked at me and said, "Joe, which one of us is the civil libertarian?" I had apparently made some suggestion that was really not civil liberties-minded at all, and, Dick and I, we just roared with laughter. He's a wonderful guy. There was some feeling in Philadelphia that he was a rough prosecutor. I tell my story in contradiction of that.

[Tape ends]