

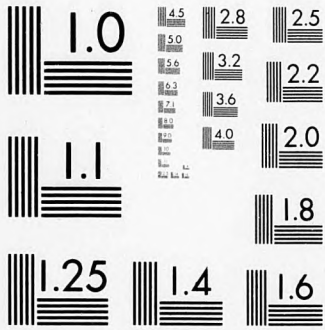
FILMED

BY



**Microfilming
Corporation of
America**

3



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

24 X

NEW YORK TIMES ORAL HISTORY PROGRAM

COLUMBIA UNIVERSITY ORAL HISTORY COLLECTION,
PART IV
(1-219)

Microfilming Corporation of America
Sanford, North Carolina
1979

Copyright © Trustees of Columbia University
New York, New York 10027

NEW YORK TIMES ORAL HISTORY PROGRAM

COLUMBIA UNIVERSITY ORAL HISTORY COLLECTION,
PART IV
(1-219)

No. 199

Jack B. Tate

Social Security

Microfilming Corporation of America
Sanford, North Carolina
1979

COPYRIGHT © Trustees of Columbia University
New York, New York 10027

All rights reserved. No part of this work may be reproduced or transmitted in any form by any means, electronic or mechanical, including photocopying and recording or by any information storage or retrieval system, without permission in writing from the Oral History Research Office, Columbia University, New York, New York 10027.

This is one in a series of 219 oral histories micropublished as part of the *Columbia University Oral History Collection, Part IV*. Details about the contents of the entire Part IV series as well as the contents of the memoirs already micropublished in Parts I, II, and III of the Columbia University Collection may be obtained from:

Microfilming Corporation of America
1620 Hawkins Avenue/P.O. Box 10
Sanford, North Carolina 27330

PREFACE TO THE MICROFORM

EDITION

THE READER of this Oral History memoir is asked to bear in mind:

that it is a transcript of the spoken word;

that permission to cite or quote for publication must be obtained by sending this office pertinent pages of your final draft, Columbia University being the copy-right owner;

that no representation is made, by the University or by the publishers, as to the factual accuracy of the memoir. The scholar judges for himself.

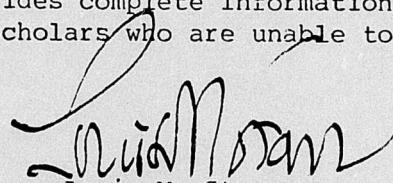
In preparing this material for the cameras, we have supplied the publishers with the best available copy of each transcript.

Oral History transcripts vary considerably in style and appearance. The early ones (1949-1955) were retyped from start to finish after editing by the interviewer and a final check by the oral author. Increasingly from 1956 on, the first draft--the verbatim transcript--was allowed to stand, the oral author's corrections being inserted by hand. Sometimes this procedure could not be followed because circumstances prevented. The introduction to each memoir should be scanned for information on this.

Eight hundred and thirty of Columbia's Oral History memoirs, at this writing, are obtainable in microfiche. They have been published in four parts of roughly 200 memoirs each. Each part will have its own computer-generated, multiple-access index. At this writing, only the index to Part I is available. For listings of other oral history materials available in microform and other information, write the New York Times Oral History Program, c/o Microfilming Corporation of America, Box 10, Sanford, N.C. 27330.

Approximately one third of Columbia's Oral History Collection is now available in this form. What of the rest? A descriptive guide to the whole, edited by Elizabeth B. Mason and the undersigned, entitled THE ORAL HISTORY COLLECTION OF COLUMBIA UNIVERSITY, has just been published and may be ordered from this office for \$23.75. The book provides complete information about access and about our research service for scholars who are unable to visit Columbia.

October, 1979


Louis M. Starr
Director

No. 578

open

SOCIAL SECURITY PROJECT

Dean Jack B. Tate

Oral History Research Office

Columbia University

September 1965

PREFACE

This memoir is the result of a series of tape-recorded interviews conducted for the Oral History Research Office

by Peter A. Corning
in New Haven, Conn.

with Jack B. Tate, Assoc. Dean
Yale University Law School
during June and July 1965

Dean Tate has read the transcript, and has made only minor corrections and emendations. The reader is asked to bear in mind, therefore, that he is reading a transcript of the spoken rather than the written word.

The memoir may be read, quoted from and cited only by serious research scholars accredited for purposes of research and the Social Security Administration by Columbia University; and further, this memoir must be read in such place as is made available for purposes of research and the Social Security Administration search by Columbia University. No reproduction of this memoir, either in whole or in part, may be made by microphoto, typewriter, photostat, or any other device, except by

Dean Tate, his heirs, legal representatives, or assigns.

Approved:

Jack B. Tate

Date:

8/21/65

PREFACE

This memoir is the result of a series of tape-recorded interviews conducted for the Oral History Research Office by Peter A. Corning with Jack B. Tate, Associate Dean of the Yale University Law School, in New Haven, Connecticut during June and July, 1965.

Dean Tate has read the transcript, and has made only minor corrections and emendations. The reader is asked to bear in mind, therefore, that he is reading a transcript of the spoken rather than the written word.

The memoir may be read, quoted from and cited only by serious research scholars accredited for purposes of research by Columbia University and the Social Security Administration; and further, this memoir must be read in such place as is made available for purposes of research by Columbia University and the Social Security Administration. No reproduction of this memoir, either in whole or in part, may be made by microphoto, typewriter, photostat, or any other device, except by Dean Tate, his heirs, legal representatives, or assigns.

LH

-1-

Interview # 1

Interview with Dean Jack B. Tate by Peter Corning

New Haven, Connecticut

June 3, 1965

Q: To get started now, let me ask you how it was you came to be involved with the Social Security Administration?

Tate: I had been with the National Recovery Administration, and after the ~~S~~hecter Case when it was declared unconstitutional, I didn't know what I would do. I was at a cocktail party ^{given by} ~~at~~ a friend of mine, Charles Eliot, and his brother, whom I did not know very well, Tom Eliot, came up to me and asked me what I was going to do now that the NRA was folding. I told him I didn't know, but I would like to work with one of the New Deal agencies, either the Labor Relations Board or the Social Security Board.

Q: What year was this--do you recall?

Tate: 1935, I think. He said no more about it and went his way, and I thought no more about it until several weeks later he came to me and asked if I would be his first assistant, at which I was delighted and accepted. And so I began work with Tom in the very early days. As a matter of fact, it was before the board was established. The board had not been confirmed, and I think I was the first employee to work with

the Social Security Board who had not worked on the legislation to put it into effect.

Q: I see. When you got the job did Mr. Eliot give you any idea of what the job would entail specifically?

Tate: I don't think Tom had an awfully clear idea himself. We kind of played it by ear as we went along. There were very few employees. They were borrowed from other agencies. I was borrowed from NRA to begin with until the act was passed and an appropriation was made, which I think was something like a year later.

Q: In other words, you were actually being paid by the NRA during this period.

Tate: That's right. There couldn't have been more than a dozen people working on social security. One of the things we had to get started very early was a public assistance program, and I worked on that first. That became a kind of specialty of mine.

Q: When you were considering the job or being considered for the job, did you have to have an interview with the Social Security Board?

Tate: I don't recall whether I did or not. I do recall that the board had not been established then. I imagine I talked with Arthur *Altmeyer* and one or two others, but I'm not certain.

Q: How did you feel about the idea of taking a job with the Social Security Administration? Did you have any particular attitudes toward the job?

Tate: I was very keen about it because I had worked in the NRA and that was a basis of so much New Deal legislation--wages, hours, working conditions and so on. I was very keen about working with it.

Q: Did you have any misgivings~~at~~ all about it--the fact that it was a very fluid situation and the organization was unclear and you were sort of getting in at the beginning?

Tate: No, I had no misgivings on that score. My only misgivings were about myself. I've never taken a job that I didn't have misgivings about.

Q: Let me ask you, since you've mentioned your boss, Tom Eliot: perhaps you could digress for a moment and describe him? What sort of person was he?

Tate: Tom was and is a very intelligent person, a very vigorous person, vigorous of body, vigorous of mind. It was a very great pleasure to work with him. I suppose you know about the article he published in Atlantic Harpers (1960) about early days of Social Security. In there he mentions or describes the circumstances under which he employed me and said that he wanted to get someone who was older and had had more administrative experience, and he had the notion that I had had some success in administrative work in the National Recovery Administration, and he knew that I was older. Now, he at that time, as I recall, was about 27 years old, and I was a graybeard of about 30.

Q: So you looked a lot older. Do you recall during the period that you worked under him any particularly vivid reminiscences about the way he operated or experiences you had with him that could ~~sort of~~ illustrate the sort of person he was?

Tate: Well, he was, as I say, vigorous and somewhat impatient at times. I remember one time at a board meeting there was a good deal of discussion, as there always was at the board meetings, and he turned to me and said, "Don't you think I should get in on this?"

I said, "No, not now. I think it's going your way. We don't have to push if it works out our way anyway."

So he was somewhat impatient about it and after a while he asked again and then he looked at the ring on my finger and he said, "What does that ring say?"

It was a school ring of my wife's and it said: "Make haste slowly."

He let out a snort and everybody wanted to know what started this, but they never found out.

Another time I remember in the very early days: You know in the government, you get a letter, you answer it. This is ABC almost. It makes a lot of useless work, but I found out that the first few weeks ~~of letters~~ that Tom didn't like or disagreed with, he was throwing in the wastebasket. *I persuaded him to stop that practice.* So I guess my venerable years and experience were of some use there.

Q: When you first went to work for the board, the situation was very fluid. What were some of the problems that you had to deal with during those first days?

Tate: At first I worked on the state and federal public assistance programs--aid to the aged, aid to the blind, aid to children--and we had immediately to get going on the state plans. They

were submitted to us for approval in accordance with the standards set forth in the Act, and we had to figure out what we wanted in the plan and how we wanted it. I did a great deal of my work with Helen Barry, who was Jane Hoey's assistant. That was before Jane came I guess that I started out working with Helen. We worked out the original plans. At first, you know, she distrusted lawyers and I distrusted social workers, so we spent some time throwing daggers at each other until finally we decided we could trust each other and then we worked together very harmoniously and have been friends ever since.

Q: I take it then from what you're saying that you had to deal with people in various bureaus when specific problems arose, that you'd always have to work in different bureaus rather than being sort of isolated and working in your own sphere.

Tate: No, our work was never really isolated. It was my strong feeling, with which Tom agreed, that you had to be in on what was happening in order to work effectively. Neither one of us thought in this kind of situation, or really any kind of situation, a lawyer could be very effective operating

from an ivory tower. So whenever there was a board meeting we went. Now, the board didn't entirely like that at first.

Q: Why?

Tate: Well, they felt: these lawyers sticking their nose into everything and making us too legalistic, particularly Arthur Altmeyer. I think Arthur must have been bitten by a lawyer in his early youth. He had four lawyer uncles, I think, and he worked with them I think when he was working his way through school; but he felt very strongly about lawyers. Every now and then we would hear there was a board meeting~~g~~ being held and we weren't there, so one or the other or the both of us would go into the board meeting.

Q: They wouldn't notify you.

Tate: No, and I had one place I chose at the right end of the table at which they sat and sat there every time. Finally it got so if nobody was sitting in that chair, they would say, "Where is the legal adviser, the general counsel?"

Q: You made it a custom.

Tate: Oh, yes. I made it a custom quite deliberately. That was our place.

Q: Did this lead to any specific incidents of antagonism or hostility that you recall between the legal department and Arthur Altmeyer, this feeling of distrust?

Tate: Well, I don't think there was any real hostility. There was certainly no hard feelings that I know of, but Arthur was one to put the lawyers over the ropes always and he seemed to have a very deep-seated feeling that he was going to be guided too much by lawyers, get too legalistic and get away from realities because of that. In good humor there were things said that wouldn't look too well in print, you know: "Oh, I suppose you lawyers want to stop everything" sort of business. And then I'd say, "Oh, Arthur, you've got the same record on. Do you want/^{me}to finish it for you?" and we'd go about our business.

Q: But it didn't get to the point of...

Tate: No open break, no schism.

Q: Or serious friction.

Tate: No, I don't think so.

Q: Did this mean that to a certain extent you had to take the initiative in moving into legal problems--that they wouldn't come to you?

Tate: Yes. As I indicated earlier, the social workers were very skeptical of lawyers. And I don't know whether you've worked with social workers or not, but they're a group that make you very skeptical of them if you have any orderly idea of doing business. They're a magnificent group. It took me a long time to find this out. You know, they calmly passed a revolution in the '30s and went on about their business. What is the use of arguing with people like that? And Jane Hoey was one of the best salesmen in dealing with the state officials of anybody I've ever seen. ^{She} ~~They~~ could get them to do the right thing and I used to deplore when she gave what I thought were the wrong reasons, but she'd come up with the right results, so I said, "Why bother about that?"

There was just ^{an amusing incident} ~~a happenstance~~ when we had a public assistance plan from I think South Carolina. I was sending one of my assistants, Ed Williams, down and she was sending one of her women down. Ed came to me in some concern and said Jane's representative didn't want ~~to~~ ^{to} talk politics at all when they talked to the governor. He said, "You know, I think we ought to tell him that a good plan gets good votes. The

old people will be for him and so forth and I think that will impress him, but she said 'no.'

I said, "Well, Ed, let her take the lead. It's the public assistance plan and they have to make the decision and accept the results."

Well, he came back quite amused. They'd gotten down there and waited for a while for their appointment with the governor in this ante room. Then they were shown in and the telephone rang. A call had been put through and he picked up the phone. He said, "Yey-es? Yey-es? Yey-es? Well, I think I'll go along and hang him anyway."

Then ^{Ed} ~~he~~ said the public assistance representative started talking more politics than he'd ever heard in his life.

Q: You mentioned a few minutes ago that one of the first problems you dealt with was public assistance and that you worked with Helen Barry. Could you describe what the problems were that you were dealing with with her?

Tate: Well, it was the kind of problem that comes up in a public assistance ^{plan.} ~~thing.~~ You see, ^{the Social workers} ~~they~~ would review the plan and then it would be sent to us to be reviewed. We would go over the whole thing: the automatic checks, like being sure

it went to the right age or the determination of blindness or whatever that was. And then there were more complicated things ^{such as} ~~like~~ what ^{is} ~~was~~ essential to a fair hearing and due process and that sort of thing.

Q: At that point there wasn't a body of legal precedent on social security as there is today. What sort of standards did you apply in determining whether or not...?

Tate: Well, some of them were fairly clear--like age--and some of them were fairly complex, like a fair hearing.

Now, fair hearing is a legal concept about which there is a good deal of literature and was at that time. Then ^{there} were things that you had to work out--the history of the Act, using legislative history. There was always a tendency of the people in the states to feel that ~~it~~ ^{assistance} ought to ^{go} only ~~go~~ to good people, and that was clearly not the object of the Act; it was to take care of need where it existed. And so they would want not to give money to children where the mothers trod the primrose path and that sort of thing. We were always watching for that, as an example.

Q: You did have to break a certain amount of new ground.

Tate: Oh, yes. That's right.

Q: Were there any sort of guidelines that you used in working out your approach to this?

Tate: Well, ~~the~~ the main guidelines of course was the legislative history, the hearings and the reports of committees and that sort of thing.

Q: You mentioned also a few minutes ago the name of Arthur Altmeyer. Since he's somebody who is particularly important in the whole history of social security, I wonder if you could take a few minutes to describe what he was like and what sort of person he was.

Tate: Well, Arthur was a member of the first board of course. John Winant was the chairman and Vincent Miles was the other member. It was a three-member board. Of course Arthur is a very intelligent person and did a magnificent job. He was more of a gadfly in the earlier days than he became when he had the responsibility, you see. I know when Molly Dewson ~~came~~ came on the board and replaced Miles, I believe--she was a wonderful old gal--and ~~Mr~~ Mr Arthur would get to talking and

Molly would look over and say, "Oh, Arthur!" That would cut him off usually.

Winant was the first chairman and did really a magnificent job. He took it on. He was a Republican of course.

Q: What was he like?

Tate: He was a very curious person. I don't think you can say what he was like in a thumb^{nail} sketch. He became afterwards ambassador to England, you know, and sometime later committed suicide. He was ambassador during the war. I understand he did a very fine job. A very complicated man. He never, I think, really understood Miles. Miles was more of a political figure and thought politically, and I think Winant distrusted him. I don't think he needed ~~to~~ have. I think he could have carried Miles along with him more than he did. Miles would play a close game politically, but he wouldn't "cheat at poker," you see. Winant just distrusted him down the line. That was my impression.

Q: He assumed that because he was political, he'd "cheat at poker."

Tate: So it made for a rather rocky road, you see.

Q: For a man who'd been in politics himself that was a sort of curious attitude, wasn't it?

Tate: Well, he had the most remarkable talent for making virtue and good politics march hand in hand. I remember a story Tom Eliot told me. Someone in New Hampshire had ^{asked Tom,} ~~told him,~~ "What did the governor do about the money end of politics? After all, it's a very wealthy family and it costs money to run."

"Well," he said, "you know, Winant wouldn't do anything that would approach paying for political support. But I'll tell you what he did. He had a fine herd of cattle and he saw that the children in the vicinity for several months before his election got a bottle of milk each morning."

Then I remember on another occasion we had a plan up from Kansas. I've forgotten who was governor of Kansas. ^{I believe} ~~Perhaps~~ it was Landon. There was supposed to be a state plan, you see. What they had done: they had taken various pieces of legislation and patched them together ~~and~~ county authority and state authority and so forth. They had the skeleton of a plan, but I really didn't think there was much substance in it and I told this to ~~the~~ Governor, Winant.

Q: Let me clarify one point here: In each case each individual state had to draw up its own public assistance plan.

Tate: It had to draw up its own public assistance plan.

Q: And then the Social Security Board would approve it?

Tate: That's right, approve it for the federal money to go to the state in support of the plan.

Q: And it was routinely referred to you for legal checking.

Tate: Either me or a member of the general counsel's office.

Q: That's what I meant by "you." We were talking about a certain amount of friction and ~~mutual~~ distrust before. Was this something where you had no trouble, where they automatically referred it to you or was this something again where you had to take the initiative?

Tate: No, as I remember, it was fairly automatic. I don't remember any great to-do on that score at all. I don't think anybody tried to put through a plan without letting a lawyer

see it. The question was whether the advice was good or not or whether it was socially desirable or not. Now, in this plan, as I say, they had taken bits and pieces and tried to make a whole out of it, and I felt that it hadn't quite been accomplished, although it looked all right. I talked with the Governor^{Winant} about it and the governor took it and went over it. I think the board finally decided to reject it. Then it was referred to me to write a letter to the governor of the state rejecting it, and I wrote a draft of a letter and sent it up to Governor Winant. He chewed on it for a while and then sent it back to me and we had conferences off and on for about a week. He would pace the floor as he went over things. He was a very tense man. You'd get out of his room and you'd find you were just as tense as he was. I'd go back to my office and after some while I'd say, "What the hell, Jack, you don't have to be this way."

Well, in any event, after a number of conferences and a great deal of work and the changing of a word here and the changing of a word there, the governor smiled and said, "Well, Jack, I think this will do." I felt quite relieved and then he said, "You know, Jack, I've always been a great admirer of Calvin Coolidge," which startled me some because they were very different types.

I said, "Why is that, Governor?"

He said, "Well, you know, Coolidge had a very small bag of tricks, but he knew very well how to use them."

Q: I wonder if we can get back to Arthur Altmeyer for a moment because he is a very important person. I wonder if you can recall any particularly memorable anecdotes about him or any experiences that you had that would sort of reflect...?

Tate: No, I don't recall anything. He's not a dramatic person and he's not an eccentric. Winant was more of an eccentric.

Q: More colorful.

Tate: Well, Arthur is colorful enough but he just didn't get off-beat as much. He's a man of very firm convictions and you had to prove your case to him and then he would accept it when it was proven, but he didn't take it on faith. No, I don't recall anything. Sometimes you'd feel that things could be a little smoother without Arthur throwing grit around in the machinery, but they were never rocks.

Q: Could you explain in what way he threw grit around into the machinery?

Tate: Well, that's probably a harsh thing to say. He just

never seemed to me to be greasing the wheels. As I say, you had to prove it. Lawyers are used to it, you know, The trial is apt to be a trial by combat. He would have been a good lawyer, you know.

Q: About Molly Dewson whom you also mentioned here--what sort of person was she?

Tate: Oh, I was very fond of Molly. She was a great girl, and I think most people that worked with her loved her. She had been chairman of the woman's division of the Democratic National Committee before she came on the board. I remember in the early days she was there she called me in and said, "Jack, now you think I'm a politico, and I guess I am. But I'll make a deal with you. If you will take on your staff as high a percentage of women [she was very much a woman's rights woman] as there are women in the legal profession, then I'll leave you alone about appointments."

"Well," I said, "Molly, I'd be happy to do that but you lose on that because I think we already have a higher percentage of women than there are in the profession."

"Well, you prove it," she said.

So I went out and got information from the American Association of University Women and so on. I've forgotten

what the percentage was, but something like three per cent of lawyers were women and we had something like five and ten per cent on our staff. And she was as good as her word. She ~~went on~~ ^{carried her bargain} through.

Then she had a wonderful power of finding the jugular. She'd just reach right in and catch an issue. She liked to operate by sticking to ~~those~~ essentials. I remember we had a long board meeting one time about ~~the~~ Massachusetts plan. She was to go up and see the governor. I've forgotten who the governor was then. And they batted it around for hours, and it got more complicated as it went on. The board adjourned and she wiggled a finger at me to follow her. I went with her into an office and she said, "Now, Jack, here's a little piece of paper." And she gave me a piece of paper about two by four, and she ^{said, "You write} ~~wrote~~ down on this just what I'm to say to the governor."

I did and she did, and everything got straightened out.

Q: You also mentioned Vincent Miles a few moments ago and described him as being very political. Could you perhaps explain a little bit more what you meant by that?

Tate: Well, I think his appointment was a so-called political appointment, although I don't remember ~~just~~ the circumstances. Arthur was appointed because he had some expertise in the subject, and he'd worked on the legislation in the Labor Department and so on and was a friend of Frances Perkins. Winant was appointed

because he had been a governor. He was a man of know-how and was a Republican. I've forgotten who ^{Miles'} ~~Winant's~~ sponsors were, but I think they were Congressional sponsors. It was known as a political appointment. I think he thought that was one of his functions on the board, and I think he was probably right about it--that he must think of the political effects of the actions that the board took and the methods they employed. I don't think Winant liked that very much, and I don't mean that Winant was above politics, but he was pretty lofty about virtue, you know. And of course Altmeyer was more or less of a novice in government. I don't think there was any great warmth between Miles and either of the other two members.

Q: Do you recall any particular occasions where Miles' political orientation adversely affected the setting up of the Social Security Administration?

Tate: No, I don't. This is kind of a cumulative, subjective impression. I think it was shared quite generally in the organization, but there was no clear-cut instance of any dramatic importance that I recall.

Q: Did the sort of politics that he was concerned about affect

the operations of the legal department?

Tate: Well, you know, anything affects anything else. But I would say the answer is "no." You see, we had to appoint a new staff right to begin with. We had thousands of applicants for jobs and really 5-, 10,000 applicants available to us. We had all those from the other New Deal agencies--SEC and such like--and you couldn't tell beans about them. You'd read through all the paper records: he graduated from here, graduated from there at such a rank and so on and then what kind of a Joe was he? You didn't know. Now, I think ^{Miles}~~Winnant~~ was more of a proponent of people whom the Congressmen wanted to propose than certainly ^{was} ~~Winnant~~ ^{was} recognized by people on the Hill as the person they got in touch with.

Q: Did this also touch the staffing of the general counsel's office?

Tate: Well, he would bring it up certainly--yes. I don't mean that it lowered the standing. As far as I can recall, he was very decent about it, accepting our judgment of the people.

Q: So there were no really notorious cases.

Tate: No notorious cases.

Q: Of your office being packed...

Tate: No. We had some political appointees. I remember talking to Tom some years after he left. He said, "One thing we did, Jack, we had a magnificent staff of lawyers there and we were very lucky not to have political appointees."

I said, "Look, how about A and B and C who had very strong political support and that was part of the reason they were appointed?"

"Oh," he said, "they don't count."

And then we had one very funny instance. Altmeyer was very concerned that the staff was a very young staff. You know, that was the day that everybody was talking about the New Deal as wet behind the ears and a lot of happy hot dogs--you know, ~~like~~ Felix Frankfurter's ~~own~~ proteges and so on. Altmeyer would say over and over again, "In staffing your office, you ought to get more of the old family counselor type." Of course that was the last thing Tom and I wanted. We wanted as much brains as we could get for our money.

I remember one day a fellow walked in, a very fine elderly gentleman and he had a very good record as a lawyer and he had been with a very fine New York law firm, Charles Evans Hughes' firm. I had talked with him a while and then I went and stuck my head in Tom's office, which was just next door to mine, and I said, "Tom, I've got the old family counselor."

So he said, "Show him in," and he went in and we hired the fellow. Now we sat back and said, "Now we can get ten bright boys," and we did.

Q: I'd like to get back if we could to the question of the problems you had to deal with during those early days. You mentioned public assistance. There were others, too, I take it.

Tate: Yes, there was unemployment compensation, ^{That was} ~~with~~ the other big state-federal program. I didn't do a lot of work on that in the beginning and it picked up when I became general counsel. I didn't engage in a lot of the detail of that. That got very complicated very soon.

Q: Why was that?

Tate: Well, it was because of experience rating. You see, we permitted experience rating, and the states jockeyed it around a good deal--I think to their advantage rather than to the advantage of the program. It was the so-called Brandeis theory. Brandeis' daughter, Elizabeth, in Wisconsin and her husband, Paul Raushenbush, were great proponents of this, and Arthur Altmeyer was thoroughly aware and I think had been indoctrinated in this. That tended to make things very complicated. It would have been complicated anyway. Every state and federal program is.

Now, what we did in the beginning there was to get up model laws in order that the state might adopt them. We'd work it this way and work it that way and put all tentative provisions in. I think it was Mississippi that had us on the ropes there for a while. They almost adopted the law with alternative provisions before we found out what they were up to and said, "Look, make up your mind between them." Another state I believe did adopt a law with a statistical table attached.

Q: In general, how would you characterize the relationships you had with the states in setting up these laws-- both public assistance and unemployment?

Tate: It was remarkably friendly, and when I say that, I don't mean that there wasn't plenty ^{of} pulling and hauling. I remember that in the early days sometime, I went to some trouble to get myself an invitation to the meeting of the Association of State Attorneys-General, and I went there and made a speech there around social security and how we all had to work together. There were the federal provisions and the state provisions and they were often identical wording and they ought to be identical interpretation and so forth and so on. And I was received politely but coolly. We set ourselves to be as helpful to the

state attorneys-general as possible, and they soon found out that we would feed them materials and they could use them and we'd let them take credit for them. And then the following year I also got an invitation to speak before the same group, and it went off very well and I didn't bother about ~~it~~ digging in that quarter after that.

Q: You said, "polit~~x~~ely but coolly." Why was that, do you think?

Tate: They didn't want to be run by the federals. They were very suspicious. They were afraid we were going to take over. We had to show them that we were oarsmen in the same boat.

Q: In setting up these public assistance and unemployment insurance laws, wasn't there a certain amount of urgency about them?

Tate: Oh, yes. I've forgotten what the deadlines were. You see, that first year there was a reprieve and I think that was due to a long Huey Long filibuster that ~~cut~~ cut off the appropriation, but I'm a little confused about it now. So that gave us time to get started before the money started going out. But then of course the states wanted to get going; they wanted the money; they wanted to be sure and so forth, and so there was a good bit of urgency.

Q: As I understand it, in the case of the unemployment insurance end of it at least, you drew up a model bill and these of course were sent around to the states. Now, what were the criteria that you used in setting these up?

Tate: The criteria set forth in the Act. You see, there were criteria for the state laws in public assistance, criteria for the state laws on unemployment compensation. They had to meet these to get the federal money that went with it.

Q: Was this something that the legal department did on its own or did you work through the bureau?

Tate: We did nothing on our own. We always worked through the bureau. I think that was the way Tom worked and it certainly was the way I thought it should work.

Q: In setting up these state plans, you don't recall any particularly difficult situations where they were unwilling to cooperate?

Tate: Oh, yes, not so much in the setting up but in the running, we had several hearings in which money was cut off because they weren't conforming to the standards, you see. The most notable one, I think, was Ohio. We called a hearing for Ohio.

Q: Is this the Jenkins case in 1937, the one that Senator Taft finally became involved in?

Tate: He finally became involved in that. Everybody was involved in it. The governor was Davey at the time. You see, we were very eager to get them back in line quickly because you were just cutting the old people's throats if they didn't get their money at the end of the month. We figured if we could get them back in line by the end of the month, then the money could go out and there'd be no hiatus. But Davey was out drunk for weeks and we never could get to him. So we did cut off the money and they lost a million, two million dollars, something like that. And then the Ohio delegation took it up to try to get ~~free investment~~ ^{reimbursement} for these funds. I don't think that ever went through, but they put in year after year for it.

Q: Do you recall the specific details behind this? What was the cause ^{of} the problem?

Tate: No, I don't. I think they were just paying out money very freely without checking very carefully on who it went to. I know that was true in the Oklahoma hearing. There, as I recall, they were giving out ^{to} the names of tombstones and that sort of thing. That was a curious thing. There was a very amoral group that came in representing the state, some of the most important

officials in the state and they went through the hearing without much objection, without bothering very much, and then in the afternoon after the hearing, they came around and said, "Now, how do we get our money?" ^{They thought} "There must be mirrors you ^{could} do this thing with politically, you see. It ^{was} a strange business.

Q: You described that at first there was a certain amount of reserve on the part of the state attorneys-general about being dominated by the federal government. Did this extend to other areas--the state welfare departments and so on--as well?

Tate: Yes, I think it was pretty general; of course the welfare departments less ^{so} because they were most immediately concerned with getting the thing running well and maintaining the relations that permitted them to do so. But there was resistance. You see, we required a merit system for the state employees so it just wouldn't be political, and that was always some trouble. I remember Pennsylvania, which is always political. I was out one night at a very nice dinner ^{where} ~~at which~~ Senator Guffy's sister was--^{Emmy} ~~Amy~~ Guffy Miller. I met her. She was an old lady and I talked with her a bit. The next morning the telephone rang and she said, "Mr. Tate, I don't know whether you remember an old lady you saw last night. I'm ^{Emmy} ~~Amy~~ Guffy Miller." I said, "I remember very well, Mrs. Miller, and it's

very nice to hear from you again."

"Well," she said, "there's a little thing that's been puzzling me. They tell me in Pennsylvania that the ~~Michigan~~ Social Security Board requires the Liquor Control Board to be under Civil Service. Now, why would that be, Mr. Tate?"

I said, "I don't think it's true, Mrs. Miller, and I don't know why they would say that, but we do require merit systems for state employees administering our program but we have nothing to do with the Liquor Control Board."

"Well," ~~she said~~ she said, "you know what I think? I think it's probably just a lot of politics."

I said, "Mrs. Miller, I think you know a great deal more about that than I do."

~~And~~ ^{At once} she said, "Good-bye."

She was a wonderful old politico.

Q: In terms of this problem of the relationships with the states, was it necessary to go to any special lengths to placate them? Did you have to make special efforts always to reassure them? Or was this something where you established a relationship and once it was established...

Tate: Oh, no. it's continuing. I imagine that it continues to this day.

Q: So you always have to be very careful.

Tate: You know, it's like dealing with Congress. You don't step on Congressmen's toes if you can avoid it.

Q: You don't, in other words, develop close working relationships. There's always a certain guardedness about it.

Tate: No, sometimes you do and sometimes you don't. I remember attending a conference of state administrators in Colorado--Denver--and it was quite clear that all of these people were fencing. They didn't know whether they could trust me or not, and that went on all day before they found out they could trust me. Then we got along very well.

Q: I take it from what you've been saying that you did do quite a bit of traveling.

Tate: No, I didn't do a great deal. My people did. You see, eventually and very early in the game we had regional attorneys in ~~the~~ something like 12 regions. They would go out to the state capitals wherever there was a fire to be put out or to be started. It would be through them that we did most of our work.

Q: This raises a question, by the way. What sort of relationship was there between the general counsel's office and Washington and regional attorneys?

Tate: It was a direct relationship. They were our employees. They received their instructions from us.

Q: What sort of instructions would they receive?

Tate: We'd send out these models plans, tell them what to do with them, how to do it. We tried to give them their head as much as we could. I remember a regional attorney meeting once in which I pleased them a good deal because I said, "Well, now, you can make one mistake. Every dog's entitled to one bite. But just don't make the second one ^{of} ~~and that it's~~ the same kind." They were very good, very responsible and quite effective.

~~That~~ Q: Were they hired in Washington by the general counsel's office?

Tate: Yes.

Q: So you would pick these guys and send them out there.

Tate: We'd try to get people from the region.

Q: That's what I was going to ask you. Were they any particular criteria you used in picking people? Did you try to get people who were with prominent firms or people who had had local government experience?

Tate: We picked every kind and tried to get them as bright as possible. I think we had an awfully good staff of lawyers, part of the time we were under the board of legal examiners which existed at that time of the Civil Service. I knew several of the members of this board, and they were very kind to me. They would tell me when a good man was coming up on their list and so we could work our timing in to get first-rate people. Of course in the beginning and at the end we just picked them where we could get them. We had all kinds. In Boston we had John Hardy. He was a Boston Irishman, a friend of Congressman McCormick's, not a brilliant man but a very fine, honest, hard-working fellow. We had in New York in the beginning Walter Gellhorn, who is a professor at Columbia, and he was followed by Lilian Poses, who ^{is} was a lawyer ⁱⁿ from New York. We had Frank Constanzy in Birmingham. He was a labor lawyer and had had a labor practice. We had Arthur Miller in San Francisco, and

he's still regional attorney. He came to us from one of the great law firms in San Francisco. ~~I've forgotten which one.~~ We had Bob Ayers in Denver. Bob was the brother of a former governor of Montana, a very fine person, a very close friend, both he and Arthur Miller.

Q: When the regional attorneys had specific problems they were dealing with, how much consultation was there with Washington? Did they often solve things on their own initiative?

Tate: Oh, yes. They usually met once a year and had about a week's conference. They would ask questions and we would give answers and we would program it and tell them what they needed to know and what was coming next and so forth.

I remember one boy, a regional attorney in Chicago, came in to a regional attorneys' conference. He'd been ~~the other~~ ^{to another} one and he was asking about this, that and the other, and when he got through, he said, "Well, I see this whole thing is still in a state of ~~flukes~~ flukes."

They would come in usually once a year for a conference. I tried to get out to the regional offices once a year, but I'd hit them about every other year, I guess. Then they'd get called in on specific problems that they wanted to come in on. Then of course they used the telephone and the mails and so on. Very close contact was maintained but not on a day-to-day basis

by any manner of means.

Q: Would you say in general this system of having a regional attorney handling the legal end of things in each region worked out pretty well?

Tate: Oh, I think so. I think it was fairly essential because there is a regional approach. I remember one case we had in the Rocky Mountain area--I've forgotten which state it was. The regional attorney was called in because this was a pretty hot potato. My assistant general counsel in charge of that particular program was marching up and down my office saying what he thought ought to be done and what ought not to be done, and I said, "Look, do you think [he was from Massachusetts] that this should be handled in this state, in the Rocky Mountain state, the same way it would be handled ^{before} by the supreme judicial court in Massachusetts?"

"Sure, sure."

I said, "That's where you're dead wrong."

I gave the regional attorney *his head* and he went out and I think he talked to a few of the supreme court judges in the drug store and things kind of got straightened out.

There was nothing wrong about it but it was far more informal than it would be in Massachusetts. In different states there were different ways. Ohio, Pennsylvania were always highly political and you had to watch it all the time. You didn't run into that so much in New York. Mostly their people were civil servants. In the Rocky Mountain area the people were apt to be less devious. They were more open, frank, less sophisticated than the East Coast or the West Coast.

Q: Was the fact that you had separate lines of control between the regional attorney and the general counsel's office, ^{on the one hand,} and ^{between} the ^{regional} ~~local~~ offices of ~~the~~ Social Security, ^{and} the various bureaus, ^{in Wash-} ington on the other, did this lead to...?

Tate: No, they worked in the regions the same way ^{we} ~~they~~ worked in Washington. They all worked together. And it was interesting to see how that happened. Now, in Denver Heber Harper was the regional director for a long time, a very fine, very intelligent man and the damndest worrier you ever saw. He would get his staff together and they would worry about a problem until they got a concensus, you see? Now, in New York Anna Rosenberg was the regional director for a long time. And Anna was and is something of a prima donna. So all of a sudden

everything would get dramatic. The spotlight would flash and everybody would crowd to get in on the spotlight. She was very good at administration that way. She did a marvelous job. Everything was dramatic and everybody wanted to be in on ~~it~~ ^{the act} and everybody got excited about it.

Q: Do I understand you to say then, by "it worked the same way it did in Washington," that the regional attorney was then under the control of the regional director?

Tate: Yes, I guess so. The line of authority on all technical matters was from the general counsel's office. The line of authority on operations was from the regional director. And if you could draw one of those lines and make it straight, you could deal with them.

Q: You see, I can see this as a source of conflict.

Tate: No, there wasn't much conflict of that kind. There was a certain feeling in the regional offices, particularly in the early days I think, that they were out in a rowboat on the ocean and they all had to pull together. There wasn't a great deal of conflict between the regional director or the

bureau chiefs or the lawyers and each other.

Q: You said they felt like they were in a rowboat in the ocean? Why was that?

Tate: They were out there by themselves, you see.

Q: I'd like to go back for a moment to something we were talking about a few minutes ago. That was the question of the character of the board and the three members. Would you say that Arthur Altmeyer, because he was the only one on the board that really knew all the technical aspects of the thing, tended to dominate?

Tate: As I indicated earlier--I won't say he ^{was} irresponsible--but he was a little more frivolous when he was not chairman than he was when he became chairman. Then he became much more responsible and I think Arthur did a magnificent job as chairman of the Social Security Board.

Q: So he wasn't really particularly a dominant or aggressive figure on the board when Winant was chairman.

Tate: No, Winant was the dominant figure. I sometimes had the feeling that Arthur was like a dog yapping at ~~your~~^{the} heels.

Q: Before we go on, ~~is~~ there anything else about the relationship between the general counsel's office and the states or regional attorneys that we haven't covered?

Tate: I suppose there's a hell of a lot, but I think we've hit ~~it~~^{the main things}.

Q: Then I'd like to turn to the questions of the court tests of the Social Security Act. Was the general counsel's office involved with this?

Tate: The general counsel's office was involved. I did not work on that case very much. The general counsel did, Tom Eliot. One of the assistant general counsels, Tommy Emerson, who's now professor in ~~the~~^{this} law school, worked on it. There was a team of I suppose a half dozen from the office that worked with it. Charlie Wyzanski was then solicitor of Labor, now United States district court judge in Massachusetts. He carried the flag in court.

Q: Do you happen to know anything about the preparation of that case? What sort of approach did they use on it and how did they go about preparing it? Are you familiar at all with it even though you didn't work on it?

Tate: I'm familiar with it some, and how much I can recall, I don't know. The big question, of course, was how much the federal government was entitled to do in this field. Now, the unemployment compensation section for the Act was written as a state-federal program--as I recall, largely because it was thought ^{that there was a} ~~the~~ question about constitutionality ^{of} ~~was~~ straight-out federal program. The old age/^{and} survivors' insurance was written as a federal program, and I think that was the one they were most apprehensive about. The preparation was just the way you'd work on preparing anything. Everybody had his fingers crossed.

Q: That was the time when the court was less sympathetic than they are today.

Tate: Yes and a time when the court was switching, you see.

Q: About how large a staff was working on this problem of the court case?

Tate: I don't remember, but, as I say, I think there were probably as many as a half a dozen from our office and there were certain people in the Department of Labor's office. Who else, I'm not sure about.

Q: Do you have any particular reminiscences or anecdotes relating to this court case that come to mind?

Tate: The main one is purely personal. We lived out in Foxhall Village in a rented house and we wanted a house of our own, so we looked at all houses that were marked open and they were all too expensive because we wanted a bigger house than we had, you see. ~~So~~ Mrs. Tate called me one day and told me there was a house in the next block that was marked open and for sale, to come home early and we'd take a look at it. I said I would but "we can't afford that house." You know, you knew what the prices of houses would be. I went home and we looked at it and the real estate woman knew nothing about real estate. She was a navy widow and was there to bring in the navy crowd, you see. So she said, "Do you like the house?"

I said, "Yes, but we can't afford it."

"How do you know you can't afford it?" How much do you

think it costs?"

I told her. And she said, "That's remarkable. That's exactly the price they're asking for it. Well, how much can you pay?"

I told her, which was some thousands of dollars below. She said, "Well, would you mind my telling the owner you can pay that?"

I said to myself, "You fool."

That night she called and said, "May I make a firm offer?"

I said, "Yes." And again said to myself, "You fool."

Then I got on the train and went to Denver. When I got to Denver I had a telegram from my wife saying, "Our offer has been accepted."

Well, I was scared to death because I hadn't looked to see what condition the house was in, how much it would cost to redecorate and so on. I got back and my wife's father looked over the house and said it was a wonderful buy, we'd better grab it up. So we did and I went down and signed the contract for the purchase of the house. From there I took a taxi up to the Supreme Court and the Supreme Court ~~had~~ declared the Social Security Act constitutional that afternoon. If those boys had let me down, I'd really have been in a pickle.

Q: Yes, your house depended on it. As I understand it, you did

play a significant role in the ~~main~~ amendments of 1939, the Social Security amendments. Is that right?

Tate: Yes, and I remember very little about them. I remember we had a number of staff meetings. We worked on them. Most of the legislative work was under the direction of Leonard Calhoun. He ~~had been~~^{was} one of Tom's assistant general counsel, a man from Mississippi, a very able man, and he was my legislative assistant general counsel. He was very good at Hill work, and I'm not as good, so I left a great deal to him. I really don't recall in detail a great deal about them except, as I say, at staff meetings we'd go over them and problems we'd thresh out together and so on.

Q: You made the comment that you're not as good at Hill work. What did you mean by that?

Tate: I guess I'm too reticent about dealing with Congressmen and Senators. It doesn't fit easily. I like working with my associates. That's it, I guess.

Q: You didn't testify and that sort of thing.

Tate: No.

Q: Do you recall the basic approach you took to these amendments?

What was it that prompted the amendments?

Tate: I really have the vaguest recollection of what we were up to. There were a good ~~deal~~^{many} of technical amendments on unemployment compensation, as I recall--in part relating to experience rating and things that came out of our experience, and some reinforcement of the public assistance provisions. I think it was then that the merit system came in. And on the old age and survivors' insurance there was a certain upping of benefits. I really don't remember in detail about them at all.

Q: You don't remember the specific motivation for these amendments.

Tate: Just a certain amount of experience and things we wanted to get squared around on.

Q: Did you have any dealings with Congress despite your reticence in this area?

Tate: You always have some, you know, but I didn't have a great deal. I presented a budget every year. Congressmen would call

me up and ask me about this, that and the other or want somebody to be appointed--that sort of thing.

Q: What was the sort of question that they would call you up about?

Tate: Oh, they would want to know things that their state people had asked them to find out for them. The state people could have found out perfectly well themselves. Or they would call up and have some protege they wanted you to consider for appointment. I remember once a Congressman called me up--he was from Texas--and he said he had a young lady he would like to see us appoint. She would make a fine lawyer for public assistance. Well, I kind of shuddered. She came down and she was a very able, very fine gal, and so I offered her a job, which she turned down. She wasn't interested in a job. So I thought, "Well, now I'm one up on the boy. The next one I can turn down." Sure enough, not long afterward he called up again and sent another young lady. I guess Texas lady lawyers must have a hell of a time. She came down and she was also quite able. I offered her a job and she took it and worked for me some time and did a very fine job. Then at the next budget hearing he said/ to

the members of the committee, "This is a very fine man. You can trust anything he says." He felt I had paid my debt; he would pay his, which wasn't involved at all, you know.

Q: Did you ever have any occasions where you got into trouble over appointments, made a Congressman mad at you or something?

Tate: Very seldom. It's surprising how little of that there was. I had one Congressman call me up who was really quite disagreeable.

Q: Do you recall who it was?

Tate: No, but he was a Congressman from Massachusetts and an Irishman. He was not John McCormick.

Q: And not a future President.

Tate: No. I really don't remember who it was. He let me know that he thought we only appointed Jews and off-branch people like that and a good Boston Irish Catholic could not receive a fair deal and so on. He was really quite nasty. That's the only time I ~~ve ever~~ had anyone be really nasty. You know, they've been disappointed and let me know they were disappointed. No, my relations with Congress were very good, maybe because I

left them alone so much.

Q: Would you say in general then that Congressmen were willing to accept the argument that the man simply wasn't qualified for the job?

Tate: It depends on what you mean by "accept," but I guess the answer is yes.

Q: Are there any other particular problems during that early period before you became general counsel that you recall?

Tate: Of course a good many things I've talked about were after I became general counsel.

Q: Yes, that's right. We have sort of overlapped here. But concentrating now on this early period, do you recall any other problems that we haven't talked about so far that were things that stick in your mind now?

Tate: No, I don't.

Q: In addition to your~~h~~ having to deal with Congress, didn't you have to deal with various other departments such as Treasury,

Internal Revenue and so on? Could you talk a little bit about the kinds of relations you had with these departments?

Tate: Well, it was essential that you had good relations and so you worked at it. Now, the basic problem we had was with Treasury. You see, the Treasury had in its tax provisions identical provisions that we had in the Social Security Act. Now, tax laws ^{are} construed narrowly, so all the Treasury lawyers tended to construe ^{their} ~~the~~ provisions narrowly. Social laws you construed broadly to accomplish the social purpose. So we tended to construe our laws broadly. Now, this came out most in the employer-employee relationship. Is he an employee or is he an independent contractor or is he operating on his own or is he your boy, you see? So there was constant differences about that, not often acrimonious, but we had to get our joint regulations so ^{that} the federal government spoke with one mind and it was always difficult to get agreement on these joint regulations.

Now, on one occasion this employer-employee relationship business: we went to the Attorney General several times. Charlie Fahy, now Judge Fahy, was then solicitor-general. ~~then.~~ He ^{is} ~~was~~ a very able fellow. We'd get straightened out and then the thing would break out again and then we'd go to the President.

I remember on this employer-employee relationship ^{problem} we went to the President a couple of times and got rulings that went our way and then the Congress changed the law and then they changed the law back again. So you were always walking a tight rope on that one.

Q: This brings up, by the way, a whole broad philosophical area that I wanted to ask you about. I was going to leave it till the end, but maybe this might be a good point to talk about it. That is the whole question of what sort of guidelines you used and what sort of approach ~~and~~ in dealing with this sort of situation where you want to interpret the law as broadly as possible and yet at the same time, while you're within the spirit of the law, you still have to stay within the letter of the law. As you point out, there's a very definite difference in social legislation. Can you describe what this problem involved and how you dealt with it?

Tate: If you'd like to go to law school for three years, you know, you'd have some glimmering of what the answer is. That's what we try to teach the boys. It's impossible to say, but I think what I've said is basically between the narrow construction of tax laws, which is a legal principle, and the broader

interpretation of social laws, which is certainly to accomplish the purpose of the legislation, ~~you get it~~. And of course the final arbiter ~~was~~ ^{is} the court. I remember one meeting with Charlie Fahy and the general counsel of Internal Revenue and me and my boys. We got on this and Charlie said, "Do you have any case in support of your position?"

I said, "Not directly."

He said, "Do you have any coming up?"

I said, "There'll be a case before the Supreme Court in a couple of months."

He said, "Well, I suppose we can wait on that." He said, "If the Supreme Court decides as Mr. Tate thinks they will, ~~if~~ ^{I assume} that's all right with you Mr. X..."

He said, "We'll consider it."

Whereupon Charlie ~~got just~~ ^{was} furious and the madder the man gets, the quieter he becomes. Really when he got through with that poor fellow, I felt sorry for him. He'd "consider" following the Supreme Court.

Q: So, in other words, your problem then was to try and get as broad an interpretation of a law as you possibly could.

Tate: That's right. That was true, you see, not only with the federal courts, but it was true with the state courts. The

state laws often had identical provisions with ~~these~~, ^{the Federal laws} and that was why I was saying some time ago that I went to the attorney generals to see if we couldn't all stay aboard the same train going in the same directions. It would be utter chaos if the states had gone in ~~reverse~~ ^{one} direction, and the federal government had gone in ~~the~~ ^{a different} direction.

Q: Am I correct, though, that in a sense it was the Social Security Act that broke the ground in ~~these~~ ^{this} whole area to a certain extent or to a large extent? Is that correct? The legal precedents which are used in other social legislation today were established by Social Security.

Tate: A great deal. There is ~~no~~ ^{new} interpretation by the Supreme Court of the welfare clause.

Q: How do you feel about the approach that has been taken on this? Do you feel that the Supreme Court has gone too far on it?

Tate: ~~I don't know what it is,~~ but I don't think so. I think the broad interpretation of social legislation is all to the good, and I think the old court was getting itself into a strait-jacket. Evidently they thought so, because they changed their ways. Hughes and Roberts switched.

Q: We~~s~~ were talking before about your dealings with various departments. Did you also have dealings with the Internal Revenue Service?

Tate: That was what I was talking about. We had constant liaison between the Bureau of Internal Revenue and our office.

Q: Another question; One in particular that I understand was quite controversial was the question of the confidentiality of records and this involved you with other agencies, particularly the FBI. Were you involved in this controversy?

Tate: Yes. I suppose ~~the~~ ^{the} FBI business you'd think was ~~the most~~ dramatic. It wasn't. There was a feeling ~~you~~ ^{you} couldn't

administer the old age and survivors' insurance by the federal ~~government if another part of the government was~~ powers of the program ^{handing out information freely} confidentially. They just ~~wouldn't~~ give you the information. You wanted

^{such as the FBI} ages, place of birth, identifying material. Some of the agencies felt that they were entitled to this material. We made a rule that it should be considered confidential and it was a rule that applied to the states as well as the federal government. ~~in the~~

Well, I remember one time there was a meeting of state auditors, treasurers and fiscal officers in Biloxi, Mississippi. I was to make a speech before them. This was in the early days. The state fiscal officers had gotten to determining need: should they issue the check? Here's a man in need. That fellow down the road. You can't trust him. I wanted to impress upon them the necessity of letting the social workers do their job in determining need and it was the job of the check-writing people to see that the necessary things had be done on which the check could be based. So I worked on my speech at considerable length. It had to be very ^{diplomatic.} ~~dramatic.~~ I had to tell them to stay in their own bailiwick and I recognized that other people had theirs. I got down there and started that speech. There was a woman presiding at the meeting. She was the fiscal officer of Arkansas, I believe. I got about a third of the way through when I felt that my audience had just left me. It was the coldest audience I had ever seen. They just had an expression on their faces that was polite. It was clear nobody was listening. This was very jarring. You know, you feel these things when you're making a talk. So I hurried through and skipped paragraphs and

condensed sentences and so on and finished up. Then I discovered what was the matter. A mouse had come out and was running around my feet and the presiding officer was about to pass out and everybody was looking at the mouse and nobody was paying a damn bit of attention to me. I felt better after that.

Q: It wasn't the speech.

Tate: That's right. That was one of the endeavors to pull them together.

On the confidential nature of records, to get back to that, there was not too much difficulty with the FBI. There was a certain amount of shaking up and dust about it. It seemed like a big thing at that time, but looking back on it, I don't think it was one of the bigger issues that we had with other government agencies.

Q: Of course once the precedent was established and accepted....

Tate: That's true as far as we and the FBI were concerned. That's not true as far as we and the states ~~are~~ ^{were} concerned, because one of them can break out at any time, you know, and there were 48 of them then.

Q: I'd like to move on. I think we've already talked about the amendments of 1939. I'd also like to talk about some of the other events that took place after you took over as general counsel. As I understand it, shortly after you took over, the general counsel's office was moved to the Federal Security Agency. Is that right?

Tate: No. Tom Eliot was general counsel from '35 to '37, I think. In '37 I became general counsel. Now the agency wasn't set up until '39. You're right. It was a little over a year. Then it was set up. Then Fowler Harper was the first general counsel of the Federal Security Agency. That was when Paul McNutt came in as Federal Security administrator. Fowler Harper until recently was a professor here. He just died this past year. He was the first general counsel of the Agency, and I was general counsel of the Social Security Board. . . . Then when he left, I became general counsel of the Federal Security Agency.

Q: In connection with this, I wanted to ask you if you could spend some time going into this at length--the background behind how it all came about and the incidents involved and so on?

Tate: The establishment of the Federal Security Agency?

Q: And the move of the general counsel over there. For example, Arthur Altmeyer was very much opposed to the move, I'm told .

Tate: Yes. What happened was that McNutt was appointed administrator of the Federal Security Agency and the Agency was set to up trying to pull together most of the do-good agencies in Washington: the Social Security Board, Public Health, Food and Drug, St. Elizabeth's Hospital, Howard University, the Children's Bureau and so on. Well, now, of course upsetting outfits like that with strongminded heads causes commotion. You know, who's going to run Katherine Lenroot? Of course Tom Parrin was no mean operator himself. And then McNutt wanted the general counsel to be attached to the Federal Security Agency. Now, if you were going to have a unified agency, that seemed to me a very good arrangement. Arthur Altmeyer didn't like it and generally the other heads of ^{agencies} I didn't like it.

Q: Do you know why they didn't like it?

Tate: I think they thought they were ^{used to} using a certain amount of autonomy, and I think they thought Paul McNutt was a politico from way back yonder and they didn't want to have a political complexion, and of course they took pride in~~x~~ the work

that they had done and properly so. They didn't know what would come next. Now, I didn't share that feeling. I remember when the announcement came and McNutt was in town. There were a lot of people running around saying, "My God, this is awful! Are they going to make us a political agency? There'll be no virtue in us," and so forth. The regional attorneys were in town at the time and some of them were disturbed. I remember calling them together. I said, "Look, this man McNutt wants to be President of the United States. In order to be President of the United States he's got to do a good job. In order for him to do a good job, we've got to help him. Does anybody want any more than that?" And they said, "Now" so we never got caught up in that turmoil, but Arthur felt very strongly about it and a good many of the others did.

Q: So you took it a little more philosophically.

Tate: ①

I thought the idea of pulling these agencies together was good.

Well, it went down. It became increasingly easy. It was a rocky road at first certainly.

Q: Why was that?

Tate: Well, as I say, with a half a dozen very strong-

minded people pulling against it, how do you pull it together?

Q: How about your own particular move where instead of being head of your own shop suddenly were put back in a situation where you were ^{a subordinate of} somebody.

Tate: Oh, Haper wasn't a difficult person to work with, ~~He~~ was a very fine person. Now, what I did at first: He wanted an assistant, and I sent him the best man I could think of for the job. He was on my staff. He's a very wise fellow.

He ~~let~~ let Fowler and ~~he~~ let me know what was going on and Fowler knew I knew what was going on. Then Fowler decided to pull the office altogether, ~~and~~ I raised no objection to ~~that.~~ ~~this.~~ We worked together very agreeably. And when he left after a short while...

Q: I take it from what you're saying that when the move was first made you still had a certain amount of autonomy then.

Tate: The Social Security Board was completely autonomous.

Q: You were autonomous under the Federal Security Agency.

Tate: I was autonomous under the Social Security Board. I wasn't

autonomous ^{the Social Security Board.} from ~~1~~ They were my bosses.

Q: But I meant within the general counsel's office of the whole Federal Security Agency.

Tate: We became the general counsel's office. The Social Security Board's ^{General Counsel's} office became the ^{Federal Security Agency} General Counsel's Office of the ~~Social Security Board~~ lock, stock and barrel. They had no other lawyers except Fowler Harper.

Q: You mean of the Federal Security Agency.

Tate: That's right. That's not entirely true because ~~there~~ ~~were~~ the Food and Drug Administration did have a group of lawyers. They came in as a unit. I don't think the Children's Bureau... I don't remember whether we got anybody from the Department of Labor or not. I don't think so. They blandly told us they didn't have any lawyers, which I never thoroughly believed. Of course ^{the Bureau itself} had no lawyers. St. Elizabeth's had no lawyers. Public Health used the general counsel of the Treasury's office. We ~~at~~ may have gotten one or two people there. I'm not sure.

Q: Did this change make any change in the way you operated? Did this affect the manner in which you worked?

Tate: As far as the Social Security Board, no. It made it a little awkward for a while because you kind of got the cold eye for a while, but we were soon working together the way we always had.

Q: This didn't cause any problems of conflicting lines of authority between the Social Security Board and Fowler Harper?

Tate: I don't think they ever liked Fowler, and Fowler never had very much to do with them. They looked on me as kind of wrong-headed but still a member of the family.

Q: Because you ~~were a~~ ^{had been their} lawyer?

Tate: Yes and so I continued the operation with the board just as before as best I could and it wasn't too bad.

Q: So in other words, what you did in effect was you worked out on a personal basis the problems that might have existed because of conflicting lines of authority on the chart.

Tate: Well, they also found out that I was useful to them as an intermediary to the administrator, you see, because I carried the flag for them sometimes. It wasn't just me being on the admini^strators staff.

(continues on p. 61)

Interview with Dean Jack B. Tate by Peter A. Corning
New Haven, Conn. July 6, 1965

Q: To get started, let me ask you first whether you recall the circumstances under which you came to take over as general counsel of the Social Security Board.

Tate: Well, Tom Eliot was the first general counsel. He resigned, and it was a question of who would be his successor. I was his first assistant and in that sense was the logical successor.

Q: I see. When did this happen?

Tate: I don't remember just what the date was.

Q: Do you know anything about why it was he decided to resign?

Tate: I think he resigned to run for Congress. He ran for Congress three times, and I think he resigned that time to run for Congress.

Q: There were, as far as you know, no personal or policy problems.

Tate: No. And then there was some question about whether I would be the next general counsel or not, and I think there was some query about it on the Board. It took a while to come about. I remember that Molly Dewson, I was told, said she wished I'd grow some whiskers so that I'd look old enough to be general counsel. I guess that meant that Arthur Altmeyer was questioning my appointment because he was a great believer in the older type and very sensitive to the political criticism of the young people that were running the New Deal, you see. But there was no trouble, and then I was made general counsel.

Q: Do you think that Arthur Altmeyer's opposition might also have been prompted partly by the attitude that he was supposed to have had toward lawyers and toward legal people?

Tate: No, I don't think so. You see, I don't know what went on behind the scenes about my appointment. These are just surmises. But I think Arthur felt there had to be a general counsel and the question was who should it be.

Q: There hadn't been any personal conflicts between you, had there?

Tate: No, I don't think so. We kind of fought our way through the whole period we worked together, but it was a friendly battle, you know. He'd slash me and I'd slash back. Finally, as I said before, I'd say, "Well, Arthur, I've heard that record. Now let's go on to the real question."

Q: What was your attitude toward taking over as general counsel? How did you feel about taking on the job?

Tate: I've never taken on a job that I felt up to, but there it was and so I took it on.

Q: During the period when you were general counsel before you moved over to the Federal Security Agency, what were some of the major problems that you had to deal with that stand out in your mind now?

Tate: Oh, I don't recall what the major substantive problems were. I haven't them divided into time sequence at all in my mind. The amendments to the Social Security Act, of course, were a big hurdle, and there was the constant day-to-day administration--consultation with the general counsel, assistant general counsel. Then we developed a project sometime before

the Federal Security Agency, anticipating what might happen with a new department and had a good many meetings discussing that.

Q: Let me prompt you on one question. For example, what was the relationship between the general counsel's office and the regional attorneys? Was there a direct connection between you and them?

Tate: Oh, yes. The regional attorneys were responsible to the general counsel for legal matters. They were responsible to the regional director and therefore to the Board for the operations--where they'd go when, what they'd do, and that sort of thing. But their technical responsibility was to the general counsel, and I always insisted on that.

Q: Did you actually have a hand in choosing who the regional attorneys would be?

Tate: Oh, yes. Yes, I had a hand in choosing who everybody
in the General Counsel's Office
↑ was to be.

Q: How did you go about choosing people? Did you have criteria that you used in getting people that you felt were suitable?

Tate: Well, we tried to get the best lawyers that we could in the younger bracket men, those with the best brains. It was a formidable job because we had thousands of applicants. You see, this was during the Depression and every lawyer out of a job wanted to get a job with the government, and not only several thousand of our own but we had the files of other New Deal agencies such as SEC available to us and they contained thousands of applicants, and you couldn't tell very much from these papers, you see. They had all gone to law school, they had all graduated, they had all been admitted to the bar and they had all practiced law. And when you got through that, you didn't know anything about the quality of their work. So we tried to interview all we could. And, you know, you like to see people you are going to work with, and we did. Then they were recommended to us from all sides, some political, some nonpolitical. We had some people who were so-called political appointees. We didn't want to appoint just for political reasons, but they were politically endorsed, and if you could get a good man with a good political endorsement at the same time, why so much the better.

Q: Did this question of political appointees ever cause you any difficulty? Did you find yourself ever having to take

somebody that you didn't want to take?

Tate: Oh, a few times we took people we didn't particularly want to take, but I think it was pretty much of a minimum. And I must say that during all that period of appointments-- both when Tom was there and after I was running the show-- there were very few nasty businesses. The Congressmen on the whole were very decent about this. If we shot straight with them, they'd shoot straight with ^{us.} you.

Q: In the case of the regional attorneys, how did you go about selecting these people? Did you choose people from an area of the country so that they would be familiar with the legal structure of the state?

Tate: We had a man in Boston, John Hardy, who was a protege of John McCormack, and he was a real Boston Irish politician-- Hardy, that is. And I don't think he was one that we would have gone out to seek, you know, if McCormack hadn't been such an important figure. We took him with some trepidation but were very pleased with him. He did a good job. Others were more or less personal selections. There was a fellow in

Atlanta by the name of Constangy^z, Frank Constangy^z. He had worked with labor groups and had something of a ~~name~~ name for himself and we were very happy to get him.

Q: Did you put these people through any period of training in Washington?

Tate: We put them through a period of training in Washington and then sent them out in the field and then brought them in periodically just as a matter of course and on special problems we brought them in.

Q: What sort of objective did you have in mind in training them?

Tate: We wanted them to learn about the program and what they had to do. You see, they worked in great part in the state-federal program--the public assistance and unemployment compensation--and it was quite a job to get them trained in unemployment compensation, for example. It wasn't as difficult in public assistance. It was a simpler program. And then they had to learn the old age and survivors' insurance business, and they

usually were put through a period in the Baltimore office
working on ^{Old Age + Survivors Insurance Cases.} 1 . Then sometimes the regional attorneys
would be chosen from ^{that Office.} ~~this~~.

Q: To what extent did the problems that arose in the regional attorneys' offices filter up to Washington and land on your desk? Was there a lot of this or was there a good deal of independence?

Tate: There was a good deal of independence, and there was a good deal of informal consultation by telephone and that sort of thing. Then we made it a point of getting out in the field and talking with the people in the field fairly regularly-- every year or so--and sending people out from the Washington office. If there was a tough unemployment compensation problem, we might send out the unemployment compensation lawyer to work with a regional attorney.

Q: How do you feel about this sort of system where you have a regional attorney in each office? Do you feel it worked out pretty well?

Tate: I think it worked out surprisingly well.

Q: Why surprisingly well? You didn't expect that it would?

Tate: Well, it could be a pretty disjointed operation if it

wasn't nourished and watched, but it was; and they cooperated very well. There were no big problems of understanding. It was a very loyal group of people.

Q: Were there any sort of problems in educating lawyers to the social outlook, the social welfare outlook of the Social Security Administration?

Tate: I don't recall any great problems. Of course the social ~~workman~~ workers were very skeptical of lawyers, so they were warned of this and to make themselves useful. Well, I remember one man on my staff ~~made~~ wrote a memorandum to the Bureau of Public Assistance and I said, "They'll never understand it."

He said, "They ought to just take my word for it."

I said, "Oh, no. No, you have to sell this because you want them to do ~~what~~ what is the correct thing legally. They need to know what they're doing and why they're doing it. They're intelligent people and entitled to be treated that way."

Some of the memoranda you'd write over and over in order to get them into that kind of intelligible form so that the Board could understand and the person in the bureau who handled it could understand. A great deal of effort was made to do that.

Q: This brings up another point. As I understand it, the Social Security Act and the Administration introduced really a whole new legal concept, the idea that social welfare benefits could be considered a legal right as opposed to a handout that you got through the good-heartedness of the government and that this was subject to judicial action in court; so that in a sense you were setting up a whole new area of law, as I understand this. Is this correct?

Tate: Yes.

Q: Were you conscious of this, of the fact that you were breaking new ground?

Tate: Oh, yes. That was one of the exciting things about it. That's one reason we were able to get good people. They wanted to be in on the show. There was a very conscious feeling of a thing such as the New Deal and that we were part of it. Now we've had no great difficulty with a staff in training in this because they wanted to be trained. With some people it would take a little more adjustment than others. We had a good deal of difficulty with the states in this respect.

Q: What was your approach to this problem? What sort of

guidelines did you use? Did you have a governing philosophy or concept of how you were going to go about...?

Tate: We tried to do it on a selling basis rather than a crack-down basis. The Board was reluctant to use the authority that they had under the Act, and I think rightly so. I think I mentioned last time on this Ohio case I remember Davey was out drunk for a long time and we couldn't get to him to work out a compromise and adjustment. So that's the reason they lost the money. Then as soon as we would get things straightened around and in line, the month for grants had gone by and we could never pick it up.

Q: You say the Board was reluctant to use its authority and rightly so. Why did you feel "rightly so"?

Tate: They felt, for example, in the Ohio case that they wanted the people who were in need to get their money and that they ought to make any adjustment they could within the law to get it to them. If it hadn't been for the recalcitrance of the Ohio officials, they would have done it. We had other instances in which there was noncomformity with the requirements of the Social Security Act on the part of the state in which we were

abla to get the differences between the Board and the state officials settled before the next payment day in order that the payment might go out.

Q: As I understand it, the programs required you to set up review procedures within the Social Security Administration itself. Were you involved in this process of establishing review procedures?

Tate: Well, the whole question of fair hearings, that the states had to afford to the recipient, and we did a great deal of work on what legally a fair hearing was; and then, you know, the right to be represented, the right to appear, the right to know what the evidence against them is and all that goes with it. It's roughly due process.

Q: Apart from the legal aspects of it, did the fact that you were given the social questions also impose its own special requirements on what constituted a fair hearing?

Tate: Yes, but I don't have a yardstick. It was a matter of emphasis. Everybody wanted the program to be operated as a social

program, which was a liberal interpretation and helping the poor people. There was a great deal of kicking around--and there's still some that goes on--about whether women ~~on~~ who are leading an immoral life and have children on public assistance ought to get benefits, and we always contended that children are entitled to the care.

Q: In other words, don't penalize the children.

Tate: That's right. And, you know, drunkards--what about them? Well, they're entitled to the money, ~~if they don't get too bad.~~ But that was a very difficult concept to get over, and I think there's still some lingering questions about it.

Q: What was the relationship between the review procedures within the Administration or the Board and court action? Were there appeals from the review machinery within the Social Security Board to courts of law?

Tate: I don't recall any. Mandamus is a very difficult action to sustain. I don't believe in the Ohio hearing there was any attempt to take it into court.

Q: The recourse was rather to Congress.

Tate: That's right.

Q: This raises, by the way, a very interesting question. Mrs. Bernstein has argued that if there were a regular procedure written into the law originally for court reviews on appeal from the Social Security hearings, that this would have reduced the number of amendments that the Congress was required to pass over the years, particularly ~~when~~ ones dealing with special state requirements and special cases in the states.

Tate: I guess that is correct. I'm sure it's more true of the field in which she operated than the public assistance field, for example. Hers was unemployment compensation. It depends on what kind of review procedure you might have had in the act, you see. My own feeling is that it was the over-subtlety of the Board--Arthur Altmeyer in particular--and the lawyers that made for a great many of the ~~ma~~ amendments that wouldn't otherwise have been. All of the credit rating arguments usually flew the Brandeis flag. I think that was over subtle and I think ill-founded, and I think a good deal

of the fault of the unemployment compensation system comes from that.

Q: Could you explain that a little more in detail? I'm not sure I quite understand what you mean.

Tate: All right. If you run a vegetable processing plant, you have seasonal unemployment in the nature of things. If you ran a bank, you don't have that seasonal unemployment. Now, the theory was that if you gave credit for stable employment, it would promote more stable employment. I don't think either it would have promoted more stable the employment in/vegetable processing plant or in the bank. It's just the nature of the beast. That is the reason that I was never very enthusiastic about all the devices for experience ratings. But the states caught onto the fact that they could get a reduction of tax by this device, and they thought up every device under God's sun to get it. We went along with a good deal of it that we might not have had to go along with if they hadn't had ~~this division~~ ^{these provisions in the Act.} (?)

Q: I may be off base on this question, but in what way did this body of welfare law that you were developing relate to the older

concepts of the common law? Was there a direct relationship between the two?

Tate: Most law is analogy, and we used all the analogies that we could lay hands on. Now, for example, the social workers wanted to maintain--and it was a legitimate and necessary business--the confidentiality of the relation between the social worker and the client, the recipient of assistance. We used the analogy of the priest in the confession and the lawyer and his client. And a good many states adopted by interpretation in their courts this concept. Some still haven't.

Q: But in terms of the precedents which were established, did you tend to draw heavily on common law concepts or did you find you were breaking new ground altogether?

Tate: No, you didn't try to break new ground altogether. You broke new ground to the extent that you had legislation on which you rested, and as to the others you tried to find analogies in other branches of the law to use.

Q: You commented before that the law required ~~mm~~ a good deal of interpretation. I wonder: would you say that because you were dealing, as you said, in very subtle areas, that you were

required to stretch the law more because of the fact that you were dealing with social welfare than you might have, say, if you were dealing in more commercial areas? Was there more requirement that you interpret the law broadly?

Tate:

~~an~~/How much is "more"? An example, I think, touches on what you are asking: the employer-employee relation, the regulation by the Bureau of Internal Revenue and the regulation by the Social Security Board. It was much simpler for the Bureau of Internal Revenue. They were accustomed to interpreting tax laws strictly. That's the basic principle of interpreting tax laws. Now, we felt that the Social Security Act required a liberal interpretation. That was the purpose of the Act. That was the interpretation you should get as much as you could, and so that made for a difference between us and the Bureau of Internal Revenue in devising the joint regulation. I spoke of that at some length before. But I wouldn't say that we had to stretch the law, but using it for a different purpose, just made for a different result.

Q: Was there any sort of...?

Tate: I don't ~~would~~ mind stretching the law. I'm not trying to

dodge doing that. But, after all, you always had the courts as a check on it.

Q: That was the question I was going to ask. Was there any sort of trepidation on your part about whether or not you were going to come up against the courts, that the courts might interpret the law more strictly than you were?

Tate: Of course there was a great deal of trepidation of that kind in the earliest days before the constitutionality of the Act was sustained. But there was always the feeling ~~and~~ that in trying to do a lawyer-like job, you're trying to predict what courts would do in this type of situation and you figured how you could argue them into doing what was right, you see, or what you thought.

Q: Did you have the feeling of working with the Supreme Court looking over your shoulder--at that point, in the early days, knowing that the Supreme Court was more conservative than it is today?

Tate: Yes, certainly.

Q: I mean today, for example, I don't think there's any concern

that the Supreme Court is likely to get in the way, that you're likely to run afowl the Supreme Court.

Tate: Oh, no.

Q: Another point that Mrs. Bernstein brought up was the disappointment that she expressed over the fact that no real specialty in welfare law has developed. As dean of the Yale law school, this is I think in your area very much. How do you feel about this? Do you feel that it would have been desirable to have had a real specialty such as there is in tax law?

Tate: Well, I don't know. We have had a course in social legislation offered here for the past few years, and I think it's a good course. I am very skeptical of trade training. I think it's a good idea to have a social legislation course. I think it's a good idea to have social controls like SEC courses in that subject. I'm very skeptical about these courses that just spot one thing. For example, even on taxation, I would much rather study the theories, the principles, the philosophy ^{of} jurisprudence in tax ^{laws}, than just remember what the

Internal Revenue code was. I think a lot more could be done in social legislation. I think a great deal has been accomplished, but I think even more could be accomplished ⁱⁿ ~~of~~ bringing social workers and lawyers together ⁱⁿ ~~and~~ understanding what function each has and how each operates.

Q: Getting back to this question of appeals to the courts for a moment, as I understand it, there have been various attempts over the years to get Congress to amend the Social Security Act to provide for appeals to the court. Were you involved in any of these attempts?

Tate: I don't recall any of them.

Q: As a matter of fact, as I understand it, the Federal Security Agency opposed this idea. Do you happen to know why?

Tate: No, I don't know why. I just don't recall it at all. If that's true, I would assume that it was just what I've been saying--a fear that the courts would not approach the problem from the point of view of the liberal interpretation for social purposes because the courts are a very conservative

lot of people. Just as the problem is now on civil rights: some of the courts have done magnificent jobs but not all of them.

Q: What about the broad question of states' rights? Was this a constitutional issue which you had to deal with as general counsel?

Tate: You had to deal with it in connection with the original Social Security Act, and then you had to deal with it on a continuing basis as a political argument. All the states would kick up all the dust you could shake a stick at about states' rights, but then they wanted the money; and states' rights kind of faded into the background at that point.

I remember one Midwestern state in which the meeting of the Board--I think it was on unemployment compensation--the regional director was telling me about in which the governor got up and shook his fist and ranted and raved about the federal and states' rights and they couldn't have the government taking over the thing. He said afterward, "Pay no attention to that. That's just put on for show." And so ~~he~~^{we} didn't.

Q: Were there any particularly memorable specific cases or issues involving this question which you had to deal with?

Tate: Well, there was always some resistance somewhere on the grounds of states' rights. It was always ^{has} political power as a banner, kind of a bloody shirt, you know. I don't recall any big issues. I remember whenever there was a business like the Ohio business or the ~~Indiana~~ ^{Oklahoma} cut-off, then there was a great deal of talk about states' rights. I was a member of the Oklahoma hearing. It was the strangest thing you ever saw. These people came in; we had our hearing; I put in the evidence; they didn't say anything much on their own behalf, and these were some of the most prominent people in Oklahoma--the head of the women's clubs and president of the university and that sort of thing. Then in the afternoon it was quite apparent that they thought this was all show for publicity and now, "How do we do it with mirrors and get our money?" They were disappointed when they found out it didn't work that way.

Q: That you meant it.

Tate: That's right.

Q: Were you involved in the switch of the unemployment insurance program to the Department of Labor?

Tate: Not very much. That came much later. I think they went out from under us while I was general counsel of the Social

Security Agency.

Q: Do you recall the background at all? Were there any specific legal problems involved?

Tate: On that? I don't think so. It was just an arrangement in the executive department of the federal government. There was a good deal of feeling that unemployment compensation related more to labor than it did to something independent of labor and a good deal of debate about it, and they won.

Q: How about the question of nationalizing the Unemployment insurance offices during the war? Did any serious legal problems arise out of this?

Tate: You know, I really recall very little about that. I don't remember ^{problems} about the nationalization of the offices. But I don't think there were ^{many,} as I recall. I think ~~that~~ I'd remember them if there were.

Q: Also, I've been told by other people that there was a serious problem of jurisdiction in the administration of the child and maternal health care programs as to who was going to handle

these.

Q: You mean when they were brought into Federal Security?

Tate: Yes, there was. Katherine Lenroot was the head of the Children's Bureau and she was adamant about running her own show. She succeeded pretty much in doing it, you see. Now, I don't think anybody trod very heavily on Katherine Lenroot's toes because we wanted all sweetness and light, and we knew that this amalgamation caused a tremendous heart burn. I'm trying to remember. There was an ~~aman~~ incident at one of the early meetings when Katherine Lenroot was there and Watson (X) Miller, ~~I guess~~ the assistant administrator, made a sweetness and light speech which she cut off and let him know where she stood. But I don't think anybody really drew the issue of supervision. The Children's Bureau didn't like it. They wanted autonomy of the Children's Bureau. They continued to operate pretty much as they wanted to in the Federal Security Agency. I assigned one of the attorneys to the Children's Bureau and he worked with them and I think finally got them so that they thought he could be helpful to them and so became effective. It was a kind of a delicate infiltration process.

Q: But you were not directly involved in the transfer or in the problem of attempting to exert control.

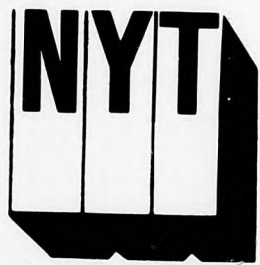
Tate: No, we were pretty much presented with it as a fait accompli.

Q: Another question I wanted to ask you was about the Illinois case where the court wanted to assume the role of investigating need for public assistance applicants. Do you recall this?

Tate: I don't really remember it. It was a ^{familiar} ~~long~~ case, but it did crop up in several places in several ways. Either the courts--county judges--wanted to do the investigation or the auditors wanted to do the investigation or somebody. Everybody felt that they ought to know who was poor and who got money, and then there was a good movement that was very difficult to down in a desire to publish this. It seemed so plausible. If these people were eating up taxpayers' money, you ought to know who the hell they were. But it really didn't promote the game very much. Some of the county officials or state auditors would tend to want to go in and do social work, and

FILMED

BY

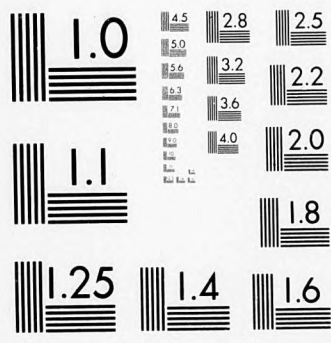


Microfilming

Corporation of

America

3



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

24 X

we'd try to persuade them to let the social workers do their job and they stick to the auditing business of seeing that there was a proper certification by the proper authorities in the proper amount.

Q: Did this involve you in any specific cases, court cases?

Tate: I'm sure it did but I don't remember them. I don't remember ^{any} specific cases.

Q: This in any case probably would have been handled ultimately by regional attorneys.

Tate: I think I told you the last time you were here about the business of talking to the auditors in Biloxi, ^{state} the Fiscal ~~Auditors~~ ^{Officers} Association, I think it was called. The whole purport of my speech was: "You stick to your knitting and let the social workers stick to theirs." We finally got around to where it was pretty well accepted, but I don't suppose it was ever universally accepted in a quiescent fashion.

Q: From what you've been saying, I take it that to a certain

extent you had to be a salesman for the concepts of welfare law.

Tate: Very much so, both within the organization and without.

Q: Did you do a lot of speech making and so on?

Tate: Well, in the early days, yes. I remember speaking three times before the State Association of Attorney-Generals. The first time I fenagled an invitation and got a very cold reception. The second time I fenagled an invitation and got no violent opposition or reaction, and I decided it wasn't worth-while to try again, and when they asked me the next time, I didn't go. They found out very early in the game that we would furnish them with materials for their briefs and they could take credit for it. We wouldn't take credit for it. As soon as they found that out, they were happy as larks.

Q: Yes, a gentlemen's agreement. What about this question of determining need? Was this a problem that you had to deal with--the setting up of standards? Was this something that the legal department got involved with?

Tate: Yes, we worked with the social workers on that. It wasn't a separate operation.

Q: Were there any sort of general underlying principles that you evolved for determining need?

Tate: Well, as I've indicated, there were certain things you evolved in a negative way. You didn't think that morality had a great deal to do with need, both as to promiscuous women of dependent children or the drunken fathers of dependent children. We felt that the child's need was pretty much the same and maybe more in that kind of situation. But we usually worked those out on a general basis.

Q: How did you go about handling the question of violations by the states in public assistance cases? I have in mind, for example, the issue of Negro quotas for public assistance in Mississippi.

Tate: Well, you know, we got reports from the states. The regional directors visited each state. The social workers are

a great fraternity, you know. They ^{states} had social workers on their staff. We had social workers on our staff, and they had the United Social Workers of America, ~~you know~~, or whatever they call their organization. You knew pretty well when anything was going very wrong. And then the method was that the ~~inman~~ representative of the Bureau of Public Assistance from the regional office would go in and talk with the state officials, and sometimes the regional director would go in to talk to the state officials. And sometimes you would send in your big guns from Washington. You did all this persuasion. They always knew you could jerk the cord if they got too far off base and sometimes we did.

Q: How about the case of the Negro quotas? Are you familiar with that one?

Tate: I don't know precisely what you're talking about. You mean how many Negroes...?

Q: Well, as I understand it, that was one example of a particular problem that arose where public assistance was being assigned on a quota basis in Mississippi. A certain percentage of the funds would go to Negroes and the rest to whites.

Tate: I don't recall that, but we would have been against it.

Q: I see. Before we talked about the question of the fair hearing. Why don't we go on then? Perhaps we could go on to the question of how the general counsel's office was transferred to the Federal Security Agency. Do you recall the background behind this?

Tate: Well, Paul McNutt was made administrator. First came the executive order setting up and then the appointment of McNutt. McNutt had been High Commissioner to the Philippines. Then he came in and he brought in Fowler Harper, who ^{was} ~~had been~~ teaching ^{here the Yale Faculty} ~~on this staff~~ until just a few months ago when he died. He brought in Fowler Harper and ~~another~~ a number of other people from Indiana. He had Fowler as his general counsel. I continued as general counsel of the Social Security Board on paper at least. Now, I sent over one of my best men. Fowler asked for somebody who knew the show, and I sent him over to work with Fowler. Fowler kept up through him pretty much what I was doing and I kept up through him pretty much what Fowler was doing. We always got along very well. Fowler was general counsel of the Federal Security Agency for about a year and I was general counsel of the Social Security Board. But

then ~~we~~ ^{he} moved the whole Social Security Board staff ^{of lawyers} to be the staff of the Federal Security Agency--at the same time moved in the Food and Drug ^{lawyers,} ~~people,~~ who were the only other large group of lawyers to be a part of that office of the Federal Security Agency. Now, of course, the Board didn't like that. I think they thought I was something of a traitor, but we finally got back in bed together, you know, very congenially. Then Fowler resigned at the end of the year. I think he became general counsel of Manpower at that time, and I was made general counsel.

Q: You mentioned last time that there was some friction involved in the changeover when the general counsel was put under the FSA. You've just mentioned that there was some friction with the Board. Did you also mean friction under Fowler?

Tate: As I recall, Fowler and I and Fowler and my staff, what had been my staff, got along very well. I don't recall any real pulling and hauling. We worked out our differences where we had them. But there was a great deal of skepticism on the part of the Social Security Board and on the part of the heads of some of the other constituent agencies about McNutt. He was thought to be a politician. What was the per cent club that he ran in Indiana that he got political contributions from?

They thought he was going to disrupt the purity of these do-good agencies, you see, and some of them were very excited at the time of his appointment and wanted to see what they could do to stop it. I ^{said to} ~~told~~ my boys--the regional attorneys happened to be in town at the time--"Lay off. He wants to be President of the United States, and in order to be, he's got to do a good job, ~~and what else do you want?~~ ^{to do anything else}" We never got into any tussle with him.

Q: Were there any particular advantages or disadvantages to the new set-up, having you under the Federal Security Agency?

Tate: Well, the whole purpose of the Federal Security Agency was to bring these do-good agencies together and have some kind of coordination between them. Well, of course, with a service staff such as mine, was one of the best ways to achieve that coordination. It would be very difficult, you know, to have a Social Security Board running itself with its own general counsel, its own this, that and the other off in left field and have it coordinated with what went on in education. Of course perfect coordination was never achieved. I'm not sure it has been achieved yet.

Q: Did this changeover have any effect on the way in which the legal concepts that you had been developing were applied? Did you feel that you were still free to interpret the law as you had in the past? There was no break?

Tate: I quite deliberately maintained my contact vis-a-vis the Social Security Board on exactly the same plane it had been before. As far as McNutt was concerned, he did nothing to coerce the legal staff. He was a lawyer himself in the first place, but I don't think he would have objected to what we were doing. In the second place, he was a peculiar man. At first I thought he was just facade. He was a very handsome fellow; he made a fine speech; he didn't really seem to know an awful lot about what was going on. But then I decided I was quite wrong about that. He wasn't a facade. He was a mirror. He had Wayne Coy with him as his assistant administrator. Wayne Coy had been head of public assistance in Indiana and had done a very fine job. On all things on which Wayne advised him, he did a very fine job. Now then, he had another fellow with him--I've forgotten what his name was, one of the Indiana politicians--and when he reflected his work, it was pretty cheap, you see. Now, in my work with McNutt, I must say I couldn't have asked for more support from anybody I've ever

worked with. I didn't always admire him, but you'd go in there and say, "Governor, I think we should do thus and so for this and that reason," and he'd say, "Fine, go right ahead, I've always been of that opinion." You'd come out and you didn't know whether ^{he} you knew what you were talking about or not, and then he would support you.

Also, he expected support from you. I remember when he made me general counsel he called me in and said, "I have one question to ask you: can I depend on your loyalty?" which was an insulting question. You're not going to work for somebody you can't be loyalty to. I said, "Yes," and he said, "All right." That was it. Politicos are always that way and he was a politico.

Q: Was that, by the way, the way in which you came to be appointed general counsel of the FSA?

Tate: I think Fowler recommended me and he called me in and asked me if I'd like to do it and asked was I loyal and fine...

Q: How did you feel about taking over that job?

Tate: Well, that wasn't so much. I'd been pretty much doing it before, you see, working with Fowler. Then of course Fowler

faded out into the Manpower .

Q: What sort of person was Fowler Harper? What was he like?

Tate: Well, he was a crusader for very good causes and a very lovable person, a charming person, a very intelligent person, a nice person to work with. The strange thing about Fowler at that time to me was ~~what~~ his adoration for McNutt. McNutt had been dean of the University of Indiana law school and Fowler had been on the faculty. I couldn't understand this devotion to McNutt. And then after a couple of years--I guess it was--they had some difference and then Fowler was finished with him. He told McNutt at one point that if he did such and such a thing, he'd resign. McNutt said, "Go ahead," I think Fowler was terribly surprised. But Fowler was a very fine person--intelligent. I remember I was very happy: I found out after he'd first been made general counsel in his book on torts he'd taken the line that we had taken on the employer-employee relationship and he was basically for the unemployment business. I recall no differences at all.

Q: What were some of the major problems that you had during the period when you were general counsel of the Federal Security Agency?

Tate: ~~I don't remember. I don't put it in a time flux (?)~~
~~that way.~~ Well, the major difficulty always was getting the
lambs and the wolves to lie down together. Tom Parren, who
was surgeon-general, was a very strong-minded fellow and in-
clined to march off in his own direction. Arthur Altmeyer
was nobody's namby-pamby. Katherine Lenroot I've spoken of.
She was a strong-minded woman. And so on down the line.
To get your work done, you had to push. The same was true
of the Food and Drug Administration^{of}. But he was used to
working with lawyers, and he had a legal staff. It was less
trouble, although he gave us some trouble.

Q: One of the problems which I know that you had during the
period when you were general counsel was with your boss, Paul
McNutt. Do you want to talk about that?

Tate: Well, McNutt, as I've indicated, was something of an
enigma to me at first. He was a man whom I never learned really
to admire wholeheartedly. I admired something: he could make
a magnificent public speech. You could hand him a speech and
he'd go out and in ten minutes make the speech and it would
look as though he'd thought it over ^{all his} for life, ~~you know,~~ and ^{considered it} ~~this~~
~~was~~ a most profound thing. I remember one time the speech-writing

boys wrote a speech for him, and the next day Fowler Harper wrote a speech for him. They were exactly the opposite, and he made both of them with the utmost conviction. When I heard the second one, I thought, "My God, there'll be hell popping tonight," and there was.

Then of course he was politically a very ambitious man. He'd been governor; he'd been high commissioner to the Philippines; he'd been brought in as Federal Security administrator; and he was a Presidential candidate. I believe it was 1936 he was up, and there was some talk about him. Nothing came of it because Roosevelt ran and that was that. Then the next time around--1940, I think it was--he thought he had a good many delegates, and he didn't know that Roosevelt would run again. Then when the rug was pulled out from under him he took it rather hard, and I think he lost a good deal of interest in his work as Federal Security administrator and paid very little attention to it.

Q: Proving your earlier point, by the way.

Tate: Yes. So he wasn't around a good deal and wasn't accessible. He had a very fine assistant in Morris Collins, a wonderful Irishman; and he had Mary Switzer--a sort of man Friday ~~sort~~

~~of job, helping out.~~ The three of us put our shoulders to the wheel and pulled through and then McNutt pulled himself around and got back on the job more.

Q: How did you finally come to leave the Federal Security Agency?

Tate: Well, ~~a~~ friend of mine, Ernest Gross, was made Legal Adviser of the State Department. I had been in the State Department before I went to the Federal Security Agency for about six years, and when he became legal adviser... We had kind of swapped back and forth a good ^{part} deal of our careers. I met Ernest first in 1930 in Geneva when I was in school there, and I persuaded him to come into the State Department. He came into the State Department and then he left and went to the NRA. Then he persuaded me to leave the State Department and go into the NRA. Then he went to the Labor Board and I went to Social Security. Then I think he was in private practice for a while--I've forgotten the sequence of his life--but then anyway he was appointed legal Adviser in the State Department, and he asked if I would come back as deputy legal adviser and

I said, "Yes." Then I spent a year wondering why in the hell I'd said "Yes." I never regretted it. But I'd had a staff there that I'd pretty much selected myself in the Federal Security Agency. It was a very loyal, very able staff and anything I wanted to throw my weight around ^{about} considerably, I usually got my way on. So it was just a perfect set-up. But the reason I left was that I was just kind of bored. I'd been there about twelve years, I think. A great deal of ^{the work was a} "this-is-where-I-came-in" ~~to~~ the operation, and when I'd gone in, it had been one of the most exciting places in town; and it had ceased to be that. The State Department was the most exciting place at the time, so I went back as the deputy legal adviser.

Q: Your remark that it had ceased to be one of the most exciting places raises a whole general question. First, why did it cease to be, and because you were with the Social Security Board for so long, could you describe in a general way the changes that you witnessed?

Tate: Well, I don't think it was a hardening of the arteries particularly; but the New Deal had become an accepted thing. Of course all during the war the Social Security work was pretty much a holding action, and that got boring; and as I said, it was just having done the same thing for so long. You knew the people; you knew the reactions; you knew the problems.

It didn't stretch you out very much, and the State Department did.

Q: So you meant it more in a personal way rather than as a commentary on the whole Social Security Administration. Then on the more general ~~main~~ question, in the years since the '30s that you had been with the Social Security Administration or worked as general counsel for the Federal Security Agency, what was your general impression, your general reaction to the ways it had developed and changed over the years? Do you have any general conclusions or philosophy about that?

Tate: Well, yes. I think it got to be much more of an accepted thing both inside and outside the Administration. The fundamentals, the establishment of the principles on which they operated was much more interesting than the embroidery on the principles. As I said before, ^{Helen P Barry} ~~Helen Barry~~ and I pretty much ~~monomies~~ worked out the first public assistance plan as A,B,C,D, you see; and that was great fun and exciting and quite creative. But then you refined it this way or refined it that way, it wasn't nearly as much ^{so}. And of course that was tremendously so of unemployment compensation. I got

pretty tired of unemployment compensation because it seemed to me that it got to be far too much of an intellectual exercise. And of course the basic work on old age and survivors' insurance, while the work didn't decrease any, the basic principles were pretty well established early in the day and consistently followed--I think until now.

Q: How about the more general question of the Administration and the way it was organized and run apart from your own operation--the whole Social Security set-up? Do you have any feelings about that?

Tate: ~~Well, It~~ got tremendously big. ^{When} ~~Of course~~ I started out, ~~um~~ I think I was the first employee... Sue White and I were the first employees to work on Social Security who hadn't worked on the preparation of the legislation. We were loaned by NRA. So I always had the feeling that I knew everybody, ~~you see.~~ There were three or four of us ^{at first} in the legal adviser's office. There were a dozen ^{or} 18 in the ^{original staff of the Social Security} ~~old~~ organization; and then it got to be a hundred, and then it got to be a thousand. I thought I knew everybody just the same, and then it got to be thousands, and I had this happy illusion that I knew everybody. I remember crossing the country once and going through North Dakota. A little fellow sat down opposite me

at the dinner table. I introduced myself and he said that he was in the regional office of Social Security. I felt a little strange that he didn't know my name and I didn't know his. It puts you in your place, that kind of thing.

Q: How rapidly did this multiplication take place?

Tate: Oh, fairly rapidly. The first year there wasn't a great deal of expansion. That was probably fortunate. There was the long filibuster that gut off funds, you see, and we all had to stay on other funds. I stayed on NRA funds during that period. So there couldn't be much expansion. Then the appropriation was made, and it began to expand a good deal and had to. Of course now it's a huge operation.

Q: I think then if we've gotten you through your entire tenure there, maybe we can turn to talk about some of the people that we haven't mentioned already. One I'd like to start with is Governor Winant. Do you have some anecdotes?

Tate: Well, I talked a good deal about Governor Winant the last time. There are a few things that I've recalled since then that might be fun. ~~Immemensum~~ One thing, Winant was one of the

most effective public speakers that I've ever heard as far as getting audience participation. He whispered. He'd stand up on a podium ^{and whisper.} I remember one time there were a couple of hundred in the auditorium at Brookings Institution, and Winant was ^{speaking} ~~sitting~~ there. He would search for the correct word, you know, and he would search so that everybody else in the room was searching. Everybody would sit on the edge of his chair: What's coming next, you see? And then Winant would wait and wait. There'd be a perceptible pause of minutes. Then he'd come out with it and everybody would breathe a sigh of relief. It was the most beautiful example of audience participation, and ^{he was} ~~one~~ of the most god-awful public speakers you ever heard, with the right result with the wrong method.

~~I never had known what was delivered with the governor.~~
 He was a pretty subtle individual. He had some sense of humor. I think I've heard him tell twice the story: He was in the Army in the First World War. ~~I think he was in aviation.~~ I think he was a member of the LaFayette Escadrille to begin with. Anyway he was sent over to the general's office. The general's office was a little shack somewhere on the lines. He got there and the general had grass all around it and little flowers growing there, you know. He walked across and saluted

and the general said, "You blankety blank blank blank, get off of my grass!"

So of course he got off the grass.

Then he became governor of New Hampshire and there was a Fourth of July celebration. The man who was going to make the principal speech turned out to be this general. Winant remembered his name. So he told his wife to take the general in her car. He would go in his car, and he would go directly to the governor's mansion and they would take a circuitous road so that when the general got there, Winant would be there. Of course they came walking across the lawn, and Winant said, "You blankety blank blank blank, get off my grass!"

The general was nonplussed at first but caught on after a while and it was all all right.

You know, his resignation was funny. He resigned in order to enter the campaign in '36. I guess Arthur Altmeyer was in South America at the time, and the governor sent him a telegram saying, "Have resigned. Cheerio." You can imagine that bomb dropping in your lap when you're away from home.

Then one thing that amused me very much was in that campaign. He wanted to vote for Roosevelt. He had been the Republican governor of New Hampshire and this was quite a move.

He called me up at home one day, and ^{he} kind of whispered over the telephone, too. "Jack," he said, "can you find me a notary public?" This was a Sunday.

I said, "I hope so."

He said, "I want to vote. This is the last day I can get my vote in on an absentee ballot. I've got to do it today and I'll have to have it notarized."

So I went out. I had seen a sign down in the neighborhood that said "notary public." I knocked on the door and there was a nice little man. I asked him if he'd go with me and notarize a couple of votes, and he said he would. He put on his little alpaca jacket and we went to the governor's house, which was a rather elegant place in Georgetown. There was the governor; there was Mrs. Winant, and there was an elderly cousin; there was a man servant and a maid servant--everybody except an ox and an ass, you know. It was the most solemn thing I've ever seen in my life. None of them cracked a smile. They had never voted Democratic before in their lives, and this was just an overwhelming experience for every one of them, you see. Well, my wife and I came out of there and we just roared when we got away.

Q: Do you happen to know whether there was any more to his

resigning than the fact that he wanted to campaign for ~~the~~
President?

Tate:

~~an~~/No, as far as I know, that was it; that was the reason
he gave, and I guess that was it. He wrote an article for
Harper's that, as I recall, was quite good about it.

Q: Okay, maybe we can move on to some of the other people
that I'd like to ask you to comment on. One is Gordon
Waganet.

Tate: Waganet was a difficult man. We always got along quite
well. He was very firm in his convictions. I think he was a
man of some insecurity. He ~~kind of~~ seemed to be always over-
compensating. If he took issue, he took issue very firmly.
I was not a great admirer of Waganet. He was a very nice fellow,
and I think he did a pretty good job. But it was not a very
subtle operation. It was "Yea, yea" and "nay, nay" and no
maybe ~~and well underlined~~, and life's not like that.

Q: You don't recall any specific incidents, do you?

Tate: No.

Q: Then how about Oscar Pogge?

Tate: Oscar Pogge was a big, genial fellow, quite able, quite nice, easy to work with, a kind of Newfoundland dog type. We had no great difficulty with Oscar. We always got along pretty well. Bob Ayers was the assistant general counsel in charge of old age insurance first and then Harold Packer. They were just ordinary ups and downs but no great issues.

Q: How about Harold Packer?

Tate: Harold Packer is a wonderful fellow. He has a very subtle mind and a very good one, and he's devoted to the program and has remained devoted to it. He had that wonderful sense of people and how to work people. That was the reason I assigned him to ~~follow me (?)~~ ^{Fowler Harper} the first days when Fowler came on the scene as general counsel of Federal Security. He did a beautiful job and had Fowler's complete confidence, had my complete confidence and kept things going very nicely.

Q: How about Mitchell then? You worked under him, didn't you?

Tate: Yes. Mitchell is a very nice, very agreeable person. I don't think Mitch liked to fight very much, but he'd get into

one if he had to. Mitchell had a good deal of breadth and left the impression that he didn't have breadth. He reminds me of some of these New Englanders. You know, there's more there than is on the surface. I think he did a good job. He certainly did a good job as executive director and then as commissioner. Frank Bane was the first executive director, and Frank is a man of considerable personal charm and considerable ability to get along with people and manipulate people, a political type in a nonpolitical way, if you follow me--something of a storyteller and something of a backslapper, but a good deal more to him than that. He was here not long ago and came over to see me. He remembered ^{putting to} Tom Eliot a question and getting what he thought was the wrong answer and what the Board thought was the wrong answer. Then he came to me and asked me and I told him I thought we could work it out and did, and that was the kind of lawyer he would like--a lawyer who wouldn't say "no" until he found a way to say "yes." He thought he was buttering me by saying this, ~~but~~ ^{but he wasn't}.

Frank was a most marvelous person. He could make a speech that had less substance in it and carried more conviction than anybody I ever saw. He must have been like William Jennings Bryan. I've known a number of people ^{who} ~~that~~ said they were just swept off their feet by a speech by William Jennings Bryan and

get home and not be able to remember a word he said.

Q: A good sermon.

Tate: That's right. Now that's not fair to Frank, but there was a certain element of that there.

Q: Getting back to Bill Mitchell for a moment, would you say that he was a person who was less enthused with the social objectives of Social Security and more an administrator than some of the other people who ran the Social Security Administration?

Tate: I would say, yes. I don't know about less enthused. I think he was devoted to the work, but he created less enthusiasm in others, you know. Arthur Altmeyer of course had a lot of imagination--a very able man--and I think Arthur could lead the procession. I think Bill did it in more of a careful, less spectacular, less--I won't say flamboyant because Arthur is not flamboyant.

Then there was a woman there by the name of Maurine Mulliner. You'll run into her. She was a secretary of the Board for a great many years and a very able woman. She was

from Utah. I've known a great many Mormons and they're all strong characters. Some of them are strong good characters and some are strong characters without being good, but Maurine was both strong and good. She was a great help, both to Arthur and to Billy Mitchell. She knew how to be a go-between and how to pave the way and make things easy. She was a good person to work with and good for them to have, too. I think they recognized it.

Q: How about Wilbur Cohen?

Tate: Well, Wilbur Cohen I hesitate to speak very much about because I think now he must be a very different person from when I first knew him. He was very young when I first knew him, younger than I was, and I was no graybeard--a very able person. He was one of these young and able people who thought if they thought something out, it must be very good. Wilbur fancied himself quite an astute politician, and I don't think he was at all. I think he may be now. Wilbur and my staff got along quite well. They did a certain amount of snapping at each other, but we were usually able to smooth that out.

Q: Was he a particularly contentious sort of person?

Tate: He was assured and he was aggressive and he was bright. I'm not sure he's nearly as much of any of those things except bright now.

Q: He's considerably more experienced.

Tate: Sure, and I think he's learned from his experience.

Q: Was he a person that was also strongly dedicated to the ideals, if you will, of the Social Security Administration?

Tate: Oh, yes, thoroughly so. You know, Wilbur would issue a pronouncement and some of the social workers would say, "Oh, pooh--Wilbur," you know. Some of my people would say, "Oh, pooh--Wilbur"--that sort of thing--with no particular animus, but he was a little brash.

Q: Do you recall him as a person who had a sense of humor or was he a sort of humorless type?

Tate: Oh, I think he had a sense of humor. I've seen a few people in my time who were very bright but without a visible

sense of humor, but there are precious few; and Wilbur was certainly very bright, and he did have a visible sense of humor.

Q: Then perhaps we can move onto somebody else. How about Bernice ^{Lotwin} Bernstein?

Tate: Oh, she was the salt of the earth. She's one of the ablest lawyers I've ever known. She was in NRA when I was there. I don't remember having encountered her very much there, but I do remember one anecdote about her. She was put on the lumber code and that was a very difficult code. There was a hearing at which she presided--I suppose on wages and hours. The head of the code authority came to see the administrator. I guess it was General Johnson at the time. He said that he went into that hearing that morning thinking he would come to see the general at noon and tell him to get that little girl out of the way, and instead of that he said, "I'm coming ~~at noon~~ to tell you to hold onto that little girl. She's really good."

She could work with all kinds of people in all kinds of situations, a very subtle and able lawyer; and she did a magnificent job. She was head of the unemployment compensation

section as assistant general counsel.

Q: As I understand it, from what she said, it was you that called her up when you were looking for a regional attorney for New York after the war. Is that right?

Tate: That's right. We'd always had a good regional attorney in New York. We'd started out with Walter Gellhorn, who is on the faculty at ^{the} Columbia ^{Law School}, and a most able fellow, and then Lilian Poses became regional attorney and then Bernice. She ~~married~~ didn't want to be in Washington because her husband had established practice in New York and so she was glad to take that job. She's still in it.

Q: Was it you that sought her out for the job?

Tate: Oh, yes, sure. I knew I couldn't get anybody better than her. It was just God-given that she was willing to be there.

Q: How about Robert Bingham?

Tate: Bob Bingham had been Gil Winant's man Friday in New Hampshire. He was a very able, very agreeable, very pleasant

fellow, very New England and a little bit rigid. They used to tell a story on him that I suppose is apocryphal, but he came down from his office one day and his wife was coming for him to take him home. He got in the car and leaned over to kiss his wife and it wasn't the right car or the right wife. He could go into a fog like that when he was thinking about something.

Q: I've ^{created} ~~gotten~~ a few anecdotes like that myself. That can happen.

Tate: ^{When} ~~Then~~ he became head, Winant wanted him appointed and he was appointed largely because of that. Then he became head of the old age and survivors' insurance work, and he did a very good job. I think he's now back with the Board in some capacity in Boston.

Q: How about Robert Ayers?

Tate: Bob Ayers--he's a wonderful one--is head of ^{the} pollution control board now. He was first ~~as~~ regional attorney in Denver; did a very fine job there. He understood that region

very well. He came from Montana himself. He calls it Mun-tan-a. The south or the north says "Mon" and the other says "Mun." Bob says Mun-tan-a. His brother had been governor of Montana. He did a fine job as regional attorney out there, and he was always somebody I leaned on for commonsense judgment. He wasn't a brilliant lawyer. He's a good lawyer. But he had just an awful lot of good sense. I would call him in on problems when I thought: "Now, what do you do with this and how do you handle it?" He was very good at political manipulation; did a fine job as regional attorney and a fine job as head of the old age and survivors' insurance when he was there; and, as I say, he's now with pollution control.

Q: Are there any other of the regional attorneys that were under you that we haven't mentioned so far that you would like to talk about?

Tate: Well, Lilian Poses was one. There were a kind of group of hell-raisers among the group of regional attorneys: Lilian Poses, Marie Wing in Cleveland. She was the daughter of a supreme court judge of ^{Ohio.} Cleveland. There was Frank Constangy^z in Atlanta and Arthur Miller in San Francisco. They were the

ones that always wanted to try new things in a new way and "let's turn the world upside down"--a very stimulating group of people, and I think probably the best in the lot. Art Miller is still regional attorney in San Francisco. He does a great deal of labor mediation work on the side. I think he does that to put his boy through college. He'd got a good bite to his mind and sees through sham very well. He's become one of my closest friends, as these others were. I haven't seen Frank Constancy² for years. I see Lilian Poses several times a year, and I hear from Marie Wing. She's getting kind of along in years now, but they were a good group.

Q: How about in Washington? Are there any other people that worked under you in Washington that you haven't touched on?

Tate: Well, there are several. I'd like to just hand flowers around to a good many, but there's no particular point to that. Leonard Calhoun was the first assistant general counsel, and handled legislation. He was very adept politically and had a very subtle mind. He was a protege of Pat Harrison when Pat Harrison was Senator. If he had any fault in handling legislation, it seemed to me it was playing a little too much attention to the political point of view. But I really think

probably he was right and I was wrong about most of that. He died about a year or more ago. I know he became much more conservative before his death than he had been when he was with us. But he was somebody always to check in with because he had a lot of know-how.

Now, Reg Connolly took his place. He got one of the few awards in government for distinguished servants in the Bureau. Reg is a very fine person. He has an impediment in his speech, a slight stutter which I suppose he'll never get over. In a way I think it's been an asset. He turned it into that. You know, nobody would distrust Reg; and if he was up to some political trick, I wouldn't trust him as far as I could throw him. He was one of the cleverest manipulators--all for a good cause, you know--of anybody I ever saw.

Then the other outstanding person was Alan Willcox who succeeded me as general counsel. He's a very fine person. He comes from a line of scholars. His father was a professor at Cornell and died just recently at the tender age of 103 and led the academic procession, I think, when he was over 100, still going strong. And Alan's brother was on the faculty at Cornell and just retired or retired a few years ago. He's in India now I think. Alan ^{is} ~~was~~ very able. He ^{has} ~~had~~ that God-given gift of lucidity. He could take the most troublesome, complicated

problem, get it down in simple language so you could understand it, all in a brief compass. I've only known two or three people able to do that. He was one of them.

Then there were various other people. I needn't go into them all, but A. D. Smith who was assistant general counsel in charge of public assistance work after I became general counsel was very intense, very dedicated. He had a secretary who became pregnant and she got to the place where she was going to have to get out--seven, eight months along. Mr. Smith hadn't taken any notice of this and she thought she'd better break it to him. One day he was working on some memorandum and she came in and said, "Mr. Smith, I think I ought to tell you I'm going to have to leave. I'm pregnant."

"Oh, my God," he said, "can't you put that off a little while?"

He was a great strength in all the public assistance work.

Ed Rourke was very fine. He had a very good brain; he does good work now. I told Ed early in the days, I guess, in Federal Security... We got all tangled up with so many personnel and budget people falling over each other's feet, you know. They were just like gnats. I called Ed in once and I said,

"Now, Ed, I want you to know your job from now on is to learn the budget ^{jargon} ~~job~~ and learn the personnel ^{jargon} ~~job and do it very well and then I'll~~ talk to these people," and he did. He did one magnificent job. ^{We} Practically ~~nobody~~ had ^{no} personnel or budget ^{misunderstood} problems after that.

Charlie Wyzanski I knew. You asked about him a while ago. I knew him fairly well but I never worked very closely with him. He worked on the constitutional cases, Supreme Court cases, and Tom Eliot worked directly on that a great deal; and I did ^{not} work on it a great deal. I was pretty much running the show at the time that that was going on. They had a small staff--Wyzanski, Tom Eliot, some people in the labor office and people from the solicitor-general's office, Tommy Emerson who was on our staff and is now a teacher in the law school here. The relation to Wyzanski was very pleasant.

Index

Altmeyer, Arthur 7-8, 12-13, 17-18, 22, 37-38, 62-63
Ayers, Robert 114-115

Bane, Frank 108-109
Barry, Helen 6
Bernstein, Bernice L. 112-113
Bingham, Robert 113-114

Calhoun, Leonard 42, 116-117
Cohen, Wilbur 110-112
Connolly, Reg 117
Coy, Wayne 93

Dewson, Molly 18-19

Eliot, Thomas 1-5, 22, 61

Fahy, Charles 47-49

Gross, Ernest 98

Harper, Fowler 57, 59, 90-91, 95
Hoey, Jane 9

Lenroot, Katherine 84

McNutt, Paul 55-56, 90-94, 96-98
Miles, Vincent 19-21
Miller, Emmy Guffy 28-29
Mitchell, William 107-108, 109
Mulliner, Maurine 109-110

Packer, Harold 107
Pogge, Oscar 107

Rosenberg, Anna 35-36
Rourke, Ed 118-119

Smith, A.D. 118

Waganet, Gordon 106
Willcox, Alan 117-118
Winant, John 12-14, 16-17, 102-106