

## Interview With Senator Bob Wham

L.B. The date is January 7, 1999. With me today is former State Senator Bob Wham, and this interview is being conducted at his home in Denver, Colorado.

B.W. My family history, from the beginning?

L.B. Well, I just want to know something about your family history and your education.

B.W. OK. Well, I was born in Centralia, Illinois, in 1926. I went to public schools there and went to the University of Illinois. I graduated from there in 1947. At that time, I had already started law school, and I graduated from law school at the University of Illinois with a JD degree in 1949. And upon being admitted to the bar in Illinois in 1949, I went with a firm in Bellville, Illinois, for one year, after which I came to Colorado.

L.B. What made you come to Colorado?

B.W. Well, as I was growing up, I came to Colorado with my parents a number of times on summer vacations. My father was a United States District Judge, and he was able to take vacations of sometimes 3 weeks or a month in the summertime, and we fell in love with Colorado and came out to Colorado on several occasions, and I decided at a fairly early age that I wanted to live in Colorado. So,

L.B. And I can understand why.

B.W. Well, yeah. Coming from Southern Illinois, it's a nice place to be from. At any rate, in 1950 we moved to Montrose, Colorado, where I went to work for a law firm by the name of Kempf and Icke. They had offices in Montrose. Phil Icke lived in and had an office in Ouray. We lived in Montrose, and at least one or two days a week, I would go to Ouray, and got familiar with the country and the problems, and the people, and so forth there, and it was a very exciting time. After that, in about 1953 I guess it was, I applied for and got a job with the Attorney General's office and moved to Denver. Duke Dunbar was the Attorney General at that time.

L.B. Oh, you worked in the State House?

B.W. Oh, yes.

L.B. I see.

B.W. That's when the Attorney General's office was in the Capitol Building.

L.B. Yes, the north wing.

B.W. That's right. And I had my office there and that lasted for, oh, a year and a half, I guess. During that time, I did the legal work for all of the (chuckle) this is kind of funny 'cause it shows you a little bit of difference between the size of government then and now. I did all the legal work for the regulatory agencies that had anything to do with treating or touching the human body, including nurses. Medical Health Department was another one of my clients, all the boards, the barber boards, the beauty shop board, the beautician's board. Well, anyway, I also did the work for the board of Land Commissions and the Agriculture Department. And, oh, that's just off the top of my head. There probably were some others. But it was a very good experience. That was from about May of 1953 until December of 1954, at which time I moved from the Attorney General's office over to the Federal U.S. Attorney's office and became the Assistant U.S. Attorney. I was there for a total of 5 years. That's when Don Kelly, who later became Supreme Court Justice here in Colorado, was the United States Attorney. In 195...that was '54 to about '59. In 1959, Dick Batterton was elected Mayor of Denver and Don Kelly left the U.S. Attorney's office and became City Attorney of Denver, replacing John Banks. I was the first assistant at that time, and during the interim, he was succeeded incidentally by Don Brotzman, who had run for Governor unsuccessfully.

L.B. Now, was this after he was a Congressman?

B.W. No, no, no, this was before he was a Congressman. He was practicing law in Boulder at that time. He had been a State Senator and had run for Governor and, I believe, practicing law in Boulder at that time. But during the interim, after Kelly left and before Brotzman was appointed, I was the acting U.S. Attorney. I stayed at the U.S. Attorney's office until 1950, I believe it was, at which time, at Don Kelly's suggestion and request, I left the U.S. Attorney's office and went to the City of Denver and Deputy City Attorney. I worked in that capacity for about a year and a half until probably the first part of '52 when Don Kelly left the City Attorney's office and went into private practice. Then I became City Attorney, and I occupied that office for a year and a half until the end of Batterton's term. That was in 1953. In January of 1953, I opened a law office, private law office, in partnership with Joe Shoemaker, who had just been elected to the State Senate, and we opened an office in the old Majestic building. I stayed with the city until the end of Batterton's term and then I went full-time, of course, with the law firm. In the meantime, Joe had been spending part-time at the law firm and part-time at the State Senate, and at the end of that session, why, we were both full-time and have remained partners from 1953 until we both became 'of counsel' with the firm about 2 years ago. We still occupy that position as the old Shoemaker Law Firm. It went under several different names over the years, but the two of us stayed together, and we're both kind of part-time now.

L.B. (chuckle) Semi-retired.

B.W. Yeah. And, of course parallel to that was that during all of the years until I ran for the

Senate, Joe was in the State Senate up until, and I can't give you the exact year, he ran for Lieutenant Governor, unsuccessfully. Then he was out for, I think, a 2-year period, and due

to probably redistricting of his Senate District in which we both lived, opened up again after that, and he was re-elected again, and stayed in the Senate until 1976, at which time I ran for the Senate and was elected and served one four-year term. But I was not able, unfortunately, to do the same thing that Joe did, which was to make a good living while he was in the Senate, and I had to make a choice with whether I could make a living and practice law, or stay in the Senate. So I elected not to run for re-election.

L.B. How did you feel when you won, Bob? I remember walking precincts with you.

B.W. Oh, yes. Well, I felt elated. I felt that it was a position that I had been very familiar with through two or three things. Back when I was City Attorney, I did quite a bit of lobbying for the city and got very familiar with the legislative process. Well, even back before then when I was an Assistant Attorney General, through my representation of the Department of Health, I got involved with very extensive committee, back then it was the Health Committee, I guess, investigation of the status of the treatment or non-treatment throughout the state of sewage and what kind of legislation was needed to at least assure primary treatment and some secondary treatment of sewage throughout the state, which in some areas was non-existent. At any rate, that summer of 1954, I guess it was, I was assigned to travel with the Health Committee, the chairman of which was Dr. Ralph Stuck. I don't know if you remember him. He was a neurosurgeon from Englewood. He was in the legislature, and he was chairman of the House Health Committee, and we traveled all over the state holding hearings and getting evidence about what was where and who did what and what kinds of problems there were in sewage treatment and so forth. It ended up with the adoption of the first legislation, which I drafted, incidentally, that really required primary and secondary treatment of sewage throughout the state and required all the local communities to get busy doing the funding that was necessary to get that done. That was one of the areas in which I got quite familiar with the legislative process. Then after that, when I was with the City of Denver, I did an extensive amount of lobbying and was chairman of the city's legislative committee for a couple of years, really, in connection with that. Then, of course, my association with Shoemaker, and I had some private clients that had legislative concerns, all of which led me to become quite familiar with the legislative process. So, it was assuming a position that I had some familiarity with and just was excited about the ability to carry out those functions.

L.B. You really had an advantage.

B.W. I think I did. I think I did.

L.B. You had a knowledge not only of the Capitol, but the way it worked and the people that worked there.

B.W. Well, yeah. Not only that, but the fundamental, the basic laws that the legislature was dealing with at that time, particularly as they related to municipal law. I had an awful lot of background because I worked with legislators in a different capacity on those same laws. A lot of those areas of law, as you no doubt know, present problems that don't have solutions. They're really management problems, and they're really problems of keeping tabs

on developments and planning out what kinds of amendments are required to adequately express public policy in regard to those problems.

L.B. They're ongoing.

B.W. Oh, absolutely.

L.B. They're ongoing. The fact that you went over the state to develop it was really public health concerns by then, after...

B.W. Oh, yeah.

L.B. They're ongoing. The way the rural communities are growing now, they're certainly not going to end soon.

B.W. Well, they never will end. I mean, these are always with us and always will be.

L.B. It's like crime, education, and a few other things, you know.

B.W. Sure.

L.B. They studied that in 1900.

B.W. That's right.

L.B. Bob, what bill did you first introduce? Do you remember what it was?

B.W. No, I don't. But I remember, I think the thing that probably made the greatest impression on me the first year as far as legislation that I sponsored was something that was very local. That is, that the old State Home property, which is over here on, well it's south of Evans north of Yale, just west of Porter Hospital, which is now a city park.

L.B. Oh.

B.W. That had been a home for dependent, neglected children.

L.B. Yes.

B.W. A children's home.

L.B. Um-hm.

B.W. It was being abandoned for that purpose. The task that we had was to try to get that transferred from the state to the City and County of Denver as a park. We worked on that for a couple of years.

L.B. Were you successful?

B.W. We were.

L.B. That is now Denver Park.

B.W. And that is now Denver Park. That's right. (chuckle) I'm trying to, I'm having a mental block right now recalling the name of my successor, who at that time was a House member. My successor in the Senate, remember? Cliff Dodge!

L.B. Oh, he succeeded you?

B.W. Yes. Cliff Dodge was elected to the House at the same time I was elected to the Senate. And he and I worked together on that.

L.B. I see.

B.W. And we finally got that job done, and that probably is the thing in my first year that probably made the most impression on me, as an accomplishment, at least.

L.B. So, that could have been your first bill that you got through both houses.

B.W. Well, could have been, although my notes don't seem to show that.

L.B. Well, Bob, what major issues were you involved in during your four years there?

B.W. Well, water rights was one of them. It probably took a lot of my time and attention.

L.B. What is that rule? First in time, first in right?

B.W. The priority system?

L.B. Yes.

B.W. Oh, yeah. Of course, that's constitutional, but it was a time when the legislature was trying again to implement the integration of wells and underground water rights with the surface priority system, and that was a very complex issue.

L.B. But very important.

B.W. Yeah. And another issue was the, and it's still an ongoing issue now, but an issue that we dealt with at that time was an attempt by certain water interests to develop or to divert water in this state, particularly through wells, and transport it across state lines to other states for use.

L.B. Oh, I didn't know that was even.....

B.W. Oh, yeah. There was a very a, this kind of goes back to, the time that there were energy problems, great energy problems. The oil crisis. Everybody was looking around for alternative sources of energy or new ways to do things. One of the things that had a lot of steam and it concerned an awful lot of people, was a proposal to pump water in the San Luis Valley, for example, but there were other places that were involved too, into a pipeline. Take it over the mountains to the east side, mix it with coal and form a slurry, use the water to transport the coal through a pipeline to someplace in Texas for use down there.

L.B. I remember that. Um-hm.

B.W. And that was a real matter of concern. But we finally got that stopped. Then in connection with the energy crisis, I sponsored some legislation, some of which was successful, some of which was not, that had to do with construction, energy-efficient construction requirements and so forth.

L.B. You mean like in housing, building, things like that?

B.W. Yeah. Right, right.

B.W. There were lots of other issues of a similar kind, and I find it, well, I sponsored several bits of legislation that had to do with transportation of hazardous materials, hazardous wastes. Some of which was successful, and some was not. Some of them having to do with directing or authorizing the public utilities commission to regulate, that sort of thing.

L.B. Was that successful? Who regulates it now?

B.W. Well, the hazardous waste problem was a health problem, regulated through the Health Department. Public Utilities Commission had to a much lesser extent, particularly since there's been a big move towards deregulation from the Public Utilities Commission's standards on transportation, so that whatever's done in that regard now, I think, is done primarily by the Health Department.

L.B. Bob, let's go back and touch again on water, because I think that it's one of our greatest natural resources here in this state, I think, in our underground aquifers. It's so important in the state. I interviewed Representative Acquafresca probably a month ago. He's very concerned with the water on the Western Slope. Do you feel it's certainly getting to be more and more of a problem here in Colorado?

B.W. Well, yeah, it is, primarily because as we grow and develop, there's more intensive use of the available water, and it's a finite resource. It's a complex problem in that there are individual property rights in water, which is as it should be, but it doesn't necessarily lend itself to the most efficient way of utilizing water or particularly under modern methods of efficiency and so forth. It is a problem, and I don't know, again, it's another one of those things that doesn't have an ultimate solution. A lot of it depends on how technology advances with ways of efficient use of water. It has been feared for many years, and I think that the fear is getting more well founded all the time now, that water in some point in time

or the availability of it is really going to be a limiting factor on the growth of the state. My fear is that it's going to be a limiting factor, as some of those things sometimes are in nature, that it's simply going to be dried up. They're not going to have water available either for expansion or to maintain current uses. We're going to have to continue to do everything we can to conserve it and make it go further.

L.B. Do you think the new legislature is as equipped to handle water issues as they were when you were a rural legislature?

B.W. Well, that's a.....

L.B. That's mostly urban and suburban now.

B.W. That's a funny question, because I'd have to say that they probably aren't as well equipped, but I think the problem itself is much more complex now than it was then.

L.B. I see.

B.W. I mean, there used to be, before the use of water became so intense, before agriculture expanded so much with the use of well water, the administration of water resources was a fairly simple thing. There were a few basic tenets that, if everybody understood them and applied them, that it may not have been the fairest thing in the world from some points of view but it certainly gave everybody the rules that they had to play by. But as use becomes more intense and as utilization of water now depends on being able to, in a very tight situation, being able to demonstrate that you're not depleting the stream at all, and people figure out ways to expand their use of water and so forth, it has become a much more complex issue. It's become basically, I think, an engineering problem to determine really, what the facts are, what the cause and effect is of various kinds of use of water. What the individual or cumulative effect of water withdrawals through wells is on the stream system or on other wells, and it becomes a matter of trying to apply legal principles to some very, very complex and convoluted fact situations.

L.B. But it's so important to this state.

B.W. Absolutely. It's of vital importance.

L.B. I remember Harold McCormick talking to me about it when he left the House and went over to the Senate, and he was worried about it then, and that was 20 years ago.

B.W. Yeah.

L.B. Twenty-five years ago.

B.W. That's right.

L.B. Bob, what committees did you serve on?

B.W. Well, I was Vice Chairman of Judiciary for most of the time I was there.

L.B. Who was Chairman at that time?

B.W. Ralph Cole.

L.B. Ralph Cole. OK.

B.W. I was also Vice Chairman of Local Government. I was on Education Committee all of the time. And I, (looking through papers) I don't see that I was on any other committees in that first two years, I'm not sure. OK, Judiciary. Oh, well, I was on Appropriations as well. Appropriations, Education, Local Government, and Vice Chairman of Judiciary. That's my first two years that's what I served on. My second two years, I was on those committees. Well, I may have dropped one of them, and it might have been Local Government. I was Chairman of Business Affairs and Labor. Let me look. OK, I guess I'm wrong. I dropped off of Judiciary. So I was Chairman of, my second two years, Chairman of Business Affairs and Labor, Vice Chairman of Local Government, and member of Appropriations and Education.

L.B. So you stayed on Appropriations for the four years you served.

B.W. Um-hm, I did.

L.B. And Joe Shoemaker served on JBC when he was serving.

B.W. I think for the entire time he was in the legislature....

L.B. How were committees handled, Bob? Were they handled by Legislative Council at that time?

B.W. There was a member of the Legislative Council staff that was appointed to staff each of the committees.

L.B. I see. That had already started when you served in the Senate?

B.W. It had. Yes. Right.

L.B. And you did not have your own personal staff?

B.W. Oh, no.

L.B. You used the steno pool, Legislative Council staffed your committee...

B.W. That's correct.

L.B. ....and wrote the committee reports to hand into the Senate



B.W. That's correct. That's correct.

L.B. Did anyone have personal staff outside the president?

B.W. Not that I'm aware of. I don't believe so.

L.B. Majority Leader, did he have a secretary?

B.W. I think that's true. I think that's true. That was a part of the time it was Dick Plock and part of the time it was Dan Noble.

L.B. Dan Noble was from the San Luis Valley, right?

B.W. No, no.

L.B. Southwest?

B.W. Dan Noble was from the Southwest, and he lived over in San Miguel County. I can't think of the name of the town. It wasn't Telluride, it was where the county seat was. He was a banker. Oh, shoot, I can't think of the name of the little town, but it was just west of Telluride.

L.B. So, who were some other people that you served with in the Senate? Dick Plock and Dan Noble, and Ralph Cole, and Fred Anderson was your president?

B.W. He was the President of the Senate, I think, for the entire time I was there.

L.B. I see. Harold McCormick

B.W. And McCormick, right. McCormick was also Chairman of the Natural Resources Committee. That's my recollection. Yeah. Bob Allshouse.

L.B. Was he from the Western Slope?

B.W. No, he was from Aurora. Lived in Aurora.

L.B. Oh, was he? All right.

B.W. And, I'm just now looking at the leadership when I first went into the Senate, Ray Kogovsek was Minority Leader. I got one of my first (chuckle) opportunities to debate. I got into a fight with Kogovsek over a bill that he had in which he was, the purpose of the bill was to grant to psychologists, I believe, not immunity, but, I can't think of the word I want to use, a privilege, testimony, privilege of not testifying to communications people.

L.B. There would be confidentiality between the psychologist and the patient?

B.W. That's right. That's right. And I thought that was not called for, having done a lot of trial work both in federal and state courts and seeing the problems that could very well come about if that were adopted, because you didn't know what next would be allowed to be privileged and not used. I could see the time coming when it would be very difficult to prove a case. Particularly a criminal case. If everybody that anybody talked to was able to say, "no, I'm not going to testify to what he told me" that was in any kind of a confidential relationship at all. So I fought that, and we finally, as I recall, he postponed the bill for a time. We worked out some kind of a compromise. I don't know exactly what it was now, but it was something that made me feel like it was not a threat to the administration of justice any longer (chuckle), so we worked that out. Regis Groff was the Assistant Minority Leader and then later on he became Minority Leader, of course. Barbara Holme was in the Senate at that time.

L.B. She represented Denver.

B.W. Yeah. And at that time Marge Ruttenbeck was the Secretary of the Senate. I remember her very well.

L.B. She was from East Denver.

B.W. She was. Other people that were in the Senate at that time... Of course, Tillie Bishop, I guess, was there forever.

L.B. He retired this year.

B.W. He did? Great. Actually, term limited out. (chuckle)

L.B. That's right. How do you feel about term limits?

B.W. I think that the only really valid term limits from an intellectual standpoint, to me, is the term limits that come about when a person gets voted out. I mean, it's the electors' privilege to impose term limits, not as an arbitrary thing, but because they get rid of somebody. And I think that there's a lot lost by not having long experience by legislators in the legislative process and knowing what happened the last two or three times that a problem comes up and how it was handled then and whether it was successful and whether it wasn't.

L.B. I call them the heavyweights out there on the floor.

B.W. You bet. These problems that the legislature deals with, I guess my impression, I've got a couple of impressions, is that they are, again, mainly it's the problems, they keep coming up, and various facets of the problem keep coming, maybe some new twist to it that needs to be dealt with or, and I think fully 80% of the bills that are adopted by the legislature at least, maybe not proposed but adopted, are bills that are tweaking or modifying or correcting things that have been done before that are not quite right. And there's very little, I don't know, maybe at this day and age there isn't anything that is the subject of legislation that hasn't been legislated on time and time again before.

L.B. What is the old saying, that you have to build this year, ten years later you've changed a ....(?)

B.W. Sure. Well, that's true. That's true. The only new things at all, in my opinion, are things that are brought about by advances in technology like the kinds of things that are commonplace now, such as computerization and many medical technologies and so forth, that weren't even heard of when I was in the legislature, and to the extent that any kind of public policy statement has to be made on those things, why then, those are new problems. But the very, very.....

L.B. What changes do you see in state government since you've served? Can you think of any?

B.W. Umm.

L.B. There will be many changes now with the change in political administration from a Democrat to Republican legislation.

B.W. Yeah. Well, those are changes in philosophy and direction, they aren't basic changes in the structure of everything. I would say that the main, and I can't really particularize on this very much, but the main changes have been the growth in the size of it, not necessarily in the structure of it, but the increase in the types of things that government's being asked to do. For one thing, the increase in the staff. The staffing of the government. Because there are new federal programs that have to be administered on a state level, there are a lot more people in the state that have to be dealt with, and the problems are just a little more intense than they were then. Basically, a lot of the same problems, but due to the fact that we're getting so many more people in here there's just a greater intensity to it.

L.B. More problems. More people, more problems.

B.W. Yeah.

L.B. Same problems, but greater.

B.W. Multiplied many times.

L.B. Yes.

B.W. Right

L.B. Bob, if you could change one thing back to the way it used to be, repeal a law or relocate offices, or bring back a particular elected official, what would you change? What would be your choice...

B.W. Oh, I guess the main thing that occurs to me right now, would be I would get rid of the term limits and bring back some of those legislators that had been there for so many years and know the ropes and are as able as some of the long-term lobbyists to recite what's happened

before and not have to follow the lobbyists' lead on things like that.

L.B. What's your favorite place in the Capitol? That question was given to me by reporter Fred Brown of *The Denver Post* and it's one of my favorite questions.

B.W. I don't know that I have one. I guess if there were one, it would probably be the Senate Chamber.

L.B. Senate Chamber. Uh-huh. Many people say that. Many people say they like the well of the Chamber or someone told me they love to sit up in the Senate Gallery and the House Gallery and watch the proceedings.

B.W. Um-hm. I guess I wouldn't particularize that much. I just think the whole Senate Chamber, which is the area that I'm most familiar with in my own personal experience, would be, if I had a favorite place, I'd have to say that was it.

L.B. Now your office was on the Chamber floor. You did not have any separate office.

B.W. No, that's not true.

L.B. Oh, you did have?

B.W. Yeah. My first two years we had Senate offices in an area that was kind of cordoned off in one of the large offices on the main floor. As I recall, it was in the east side on the main floor of the Capitol building. On the east side on the north side of that great entrance hall there. There was a .....

L.B. Where the Attorney General used to be?

B.W. No, no, no, no.

L.B. Didn't he have those small offices on the first floor?

B.W. Well, he might have had some of them, yes. But by that time the Attorney General's office had moved out.

L.B. Yes. They had moved out. But you did have an office away from your Senate desk?

B.W. Oh, yes. It was one of those offices that was separated from the other offices by a....

L.B. Partition?

B.W. ....partition kind of thing.

L.B. So you served after the time when the only desk they had was on the floor.

B.W. I did.

L.B. I've had people tell me that both the Senate and House lost some of the closeness or the feelings that people had for one another. There wasn't as much camaraderie when you could have an office outside the House or Senate floor.

B.W. I don't know what they based that on. I didn't have any feeling that there wasn't a great deal of camaraderie in terms of, we were all, even in our offices, we were all very adjacent to each other.

L.B. You still shared a common space.

B.W. Yeah, yeah. Then in the second two years, there was another change. My office was up on the second floor, and we had some offices that were all over on the second floor, and mine was adjacent to the old Supreme Court Chambers, and I'm sure it was an office that had been one of the judges' offices. Probably at the time the Supreme Court moved out.

L.B. Yes, they moved out.

B.W. This was during the transition time when the Supreme Court had moved out of the old chambers and they were just, they held some legislative hearings there, but they were just starting to decide what to do with it.

L.B. And it was again, before the Supreme Court was made into the present hearing room.

B.W. Yeah.

L.B. Senators used the judges' old offices.

B.W. Yeah. It served, on one or two occasions, as a hearing room, but that was a very, very rare occasion then. At that time, my recollection is that Al Mickeljohn.....

L.B. Sorry about that, Bob, I just had to switch the tape.

B.W. No, that's all right. Well, I started to say, my recollection was that at that time, during that two-year period, Al Mickeljohn and I shared the same office.

L.B. OK.

B.W. But it was a regular office with walls and floors.

L.B. So, you did serve, that's another Senator you served with.

B.W. Oh, yeah.

L.B. He left, I believe, two years ago.

B.W. Right.

L.B. And his main work, I believe was in education.

B.W. Well, it was after I left. Course, he had had a great deal of experience as a school board member in Jefferson County prior to the time he was elected to the Senate. But, I never served with Al Mickeljohn on the Education Committee, although I was on the Education Committee for all four years. Hugh Fowler was the Chairman who was on the Education Committee at that time. I don't know when it was that Al Mickeljohn started, probably just as soon as I left, because his service on the Education Committee spanned an awful lot of time.

L.B. Yes.

B.W. 'Course he was Chairman for an awful long time.

L.B. And he's one of those people that walked out the door with lots of institutional knowledge.

B.W. Absolutely. Absolutely.

L.B. Bob, people seem to be more pessimistic, and skeptical and even cynical about government politics these days. Do you think that's a true perception, or, how do you feel about that?

B.W. Well, true perception in the sense that the disgust is justified? I don't think so. No.

L.B. Do you think it's changed?

B.W. Do you mean the attitude that people have?

L.B. Yes. Uh-huh.

B.W. Yeah, I think that it's probably changed.

L.B. More cynical?

B.W. Yeah. I think so. 'Course there's always been a great deal of that. I think that people's source of knowledge of what goes on there, which is primarily through the media, gives them that kind of a view that encourages cynicism because, I think, the media treatment of the legislature and, of course, the reporters that serve in the statehouse, they get a lot of fun out of passing on the jokes that don't particularly reflect well on the legislature. That's the kind of thing that people are interested in reading, 'cause it's light and frivolous, and not enough people have the interest or spend the time acquainting themselves with what really goes on there. There are two or three factors, probably, that aside from that make it a little more difficult to get things done. For example, the number of lobbyists, for whatever reason

now that are registered to operate in the legislature, is probably at least five to seven times as great as the number of lobbyists that were around when I was in the legislature.

L.B. 1970.

B.W. There were plenty of them then.

L.B. In 1970, I registered the lobbyists, and we had 101. Now, I think there are, like you said, seven times that many.

B.W. Yeah. Right. And why they aren't always falling over each other, is more than I know. What that many lobbyists can do, now, is beyond what I know. I think though that by and large, from the standpoint of the ability of just a single individual who has a concern to talk to his legislator and get at least some response, is every bit as good now as it was then. I would guess that, my own feeling is, that the media has had a lot to do with enhancing the cynicism that goes with people's consideration of the legislature, but I think there's another factor, too. That is, I think people now, even with as many more people there now as there are, than there were then, I think people now have less tolerance in terms of wanting to see a problem resolved in a certain way which may not be acceptable. In other words, I think there's less ability in the public to accept compromise than there was. I think that's certainly true with respect to some people even that are in the legislature now.

L.B. Well, I was always told that compromise was the soul of the legislature.

B.W. Well, it always is. And, you know, it's not only in the legislature, it's in most activities that we are in today if you want to get anything accomplished you have to be practical about it. And it would be particularly true in any political area where you're responding to what people want, because we don't have a monolithic public. They want everything under the sun, and it's not consistent, that is what people want. So you've got to, if you're going to make any progress at all you've got to make a decision and go one particular way and accommodate as many people's well-thought-out desires as possible. That really defines what a compromise is.

L.B. Well, Bob, you've worked at the Attorney General's Office in the Capitol and Federal Attorney General's Office in the city and with that to the statehouse. Do you have any stories you want to tell about those areas that you've served in?

B.W. Oh, I'd have to go back and scrape my memory for that.

L.B. You covered many years here in Denver.

B.W. Oh yea, oh yeah. A lot of things, you know, I've got general recollections, but to think about specific things, you know I could talk forever on various cases and so forth, but it wouldn't be interesting to people.

L.B. Well, somebody listening to these tapes in 25 years, they want to know, how was it, you

know. What were you interested in, what were the bills at that time, and I think you've covered that very well. Are there any questions that I should have asked you but I failed to ask you?

B.W. Ohhh, I don't know. See, I always (chuckle). I don't know. I carried a lot of judges' salary bills. One of things that I remember that we had at the time through the Judiciary Committee, and Ralph Cole was carrying the ball on that, was working out with the Supreme Court the role of the legislature vis-a-vis the role of the court in terms of coming up with the new rules of evidence, whether that should be a matter of legislation or a matter of court rule. There were a number of conferences that were held with the Supreme Court over that. Finally, it was resolved that basically it should be a matter of court rule with legislative approval. Another area that seems to have, since I was in the legislature, and it started when I was first in the legislature and I kind of put the hiatus on it, was a process by which the legislature would consider and either strike down or allow to stay or modify rules, administrative rules that were adopted. My own background, particularly in the Attorney General's office and the Federal and the state and the city legal work, it made no sense to me that the legislature which authorizes rules to be made administratively by the people who administer the legislation, to then be in a position of looking at those rules and saying "No, it ought not to be that way, it ought to be this way," and adopt the rule. Because the way the legislature should act on that is to amend the authorizing legislation rather than acting on the rule itself. Because if they act on the rule itself, then what is it? Is it a statute or is it a rule? It just didn't make any sense at all to me. And from that standpoint I kept that from happening until I was out of the legislature. I understand that now this is done as standard practice, except that they don't amend administrative rules. They either make a judgement that they're within the scope of the authorizing legislation or it isn't. And if it isn't.....

L.B. Who does that, Bob?

B.W. Well, there is a.....

L.B. Is that the old sunset ?

B.W. No, there's a special committee that does that. And Dottie's on that committee, as a matter of fact. I'm not sure whether it's, I don't think it's Legal Services, but it's one of the committees that is a joint committee that does this, and the staff that's one of their Legislative Council staff's duties now is to review that and take it to the committee and make their recommendations as to whether or not it's authorized, the rules, the particular rules, new rules, are authorized under the authorizing legislation. And if the committee finds that it's not, then they strike the rule down. To me, that has always been a function of the court, not of the legislature. But then if the legislature wants to, I guess they can.

L.B. What you're saying is they ought to change the law and let the rules and regulations be set by the court....

B.W. Sure. That's an executive branch function, to pass the rules that they are authorized to pass by the legislation that establishes the program in the first place, and establishes the aims and



the policies of the program, and the executive that adopts the rules then simply adopts standards for carrying out the program that the legislature's authorized. And you sometimes get people who say, "Well, this rule goes too far. This isn't authorized by the legislature." But traditionally that's been the function of the court to say it is or it isn't. Now the legislature gets back into that and says no, we agree that that's not authorized by the legislation. So we're going to strike the rule down.

L.B. Is that called blurring of the lines?

B.W. It certainly is in my opinion. But it's immeasurably better than what they tried to start when I first got in the legislature, which was not only to make that judgement and strike down a rule, but to, if they didn't agree with what the way the rule was written, they'd re-write the rule! And that completely destroys the separation of powers it seems to me.

L.B. Exactly.

B.W. Anyway, that was one of the things that stays with me. I remember getting into a big argument with Paul Swalm, a member of the House, and also an operator of a lot of rental units, he was a landlord and so forth. We were talking about property tax. Property tax reduction. What he wanted to do with some legislation was to in some way, and I don't remember exactly how it was, but in terms of property tax reduction, he wanted that passed on to the tenant, the renter. You know, that's a fine thing to say, it's a fine objective to have, but to me it made no sense at all because from an economic point of view, rental rates are not driven by costs. They're driven by the market, by the availability of rental units and the demand for those rental units. Whatever it costs the landlord or doesn't cost the landlord is really immaterial to that question. So, that to me, it didn't follow logically that a reduction in costs should automatically be passed on to the tenant. So, I think I incurred Paul Swalm's eternal enmity by fighting him. I did. Another thing that sticks with me that's an experience, and this becomes my only experience with a pledged vote that we made that was went back on, and it was Don MacManus who was a.....

L.B. Adams County

B.W. Yep, who was a very good friend of mine, was a Democrat, that was highly respected, and had good judgement in most cases. Fairly conservative for a Democrat. But I had this bill that related to the operation of the Attorney General's office. McFarland was the Attorney General at that time, and he had, and with legislative approval, had brought about a situation in which any assistant Attorney General who did work for any of the associated, or any of the executive department of people, was done under a program which the executive department personnel, or the budget, was billed for the time of that attorney, just like a private firm. That in itself was ok. But what it did was to remove from any executive department regardless of how big or how complex the problems or how specialized the legal service required, the ability to have an assistant Attorney General who was assigned full-time and did only their work and got familiar with it and acquired that expertise, and there was a great deal of problems within the executive department. And, of course, that was a Democrat program, or executive as well, except, you know, for the Civil Service component.

But a lot of the department heads were very upset over the fact that they didn't have consistent Attorney General help..... They had new people changing or people whose competence they questioned and didn't have anything to say about it and so forth and it removed what had there-to-fore been a program in which some of the major departments really had their own in-house counsel, in effect, that were payed their own budget and all of that. All of that was a thing of the past and it created a great problem. Well, I had seen this problem both in the Division of Water Resources where C.J. Cooper was the state engineer, and had had a lot of problems with that sort, and then some of the other areas. And another one that I was familiar with was the Civil Rights Commission in which my wife was serving on at the time, actually I think she was the chairman part of the time, and they had real problems with their legal staff. The Public Utilities Commission and some others. So anyway, I introduced the bill that would have allowed the agencies in certain instances to hire their own attorneys. The Attorney General was fighting this. As a matter of fact, I had to go to considerable difficulty getting it passed in the Senate. But it finally passed and went out of the Senate and was adopted in the House with quite a bit of lobbying on my part.

L.B. Yeah

B.W. Counting the votes and things of that sort.

L.B. Did the House amend it?

B.W. No, they really didn't. They adopted it.

L.B. So it passed the Senate, passed the House, and it.....

B.W. And it was vetoed by Governor Lamm. I thought I had all my votes lined up, even though we had not a very good majority of Republicans in the House, or, in the Senate. I had enough Democrat votes to give me what I needed to override the veto that included Don MacManus's vote. But it took quite a bit of delay and so forth to get those votes lined up. Just barely had enough votes, but I had kept postponing the bill and I finally got to the point where I had to act. No more postponing it. And Don, that morning of the vote, Don MacManus came to me and said, "I'm going to change my vote. I just, there's too much pressure from McFarlane, just leaning on me too hard, and I can't vote for the override" So I lost it.

L.B. So you lost the vote.

B.W. Uh-huh. And it really changed my attitude as far as MacManus was concerned.

L.B. But he did come and tell you that he couldn't vote.....

B.W. He came and told me, but it was too late to do anything.

L.B. Yes. He broke his word.

B.W. Oh, yeah. That's right. So that is another experience that, I think, probably every legislator has to deal with. Another of the big issues (chuckle) (I've started talking now), that I remember was a sentencing law that was kind of, well it was revolutionary at the time. It was Representative Gorsuch's bill that eliminated the indeterminate sentences that we had at that time, criminally, and provided a, they took all, or virtually all, of the discretion out of the court in sentencing and prescribed certain sentences for certain crimes. I think, like a one year of parole afterwards, and it was supposed to be a real change. It kind of got caught up in the excitement and it passed, but I really fought it. It turned out to be a disaster. We had a special committee to try to rectify the situation and included the members of the court as well as members of the legislature and finally worked out a kind of a modification of the solution to the thing and gave the courts some ability to exercise some discretion on sentencing. So that was adopted. That was a big item in 1978, I think it was, or 1979.

L.B. Was that chaired by Don Mielke in the House? He did a lot of.....

B.W. That was Ann Gorsuch. No, Mielke was afterwards.

L.B. Oh, was he?

B.W. And increasing sentences, primarily.

L.B. OK

B.W. This was, I don't remember at this point in time what overall effect that had on the pure cost of incarceration. I tend to think it was neutral. But what it did was to simply deprive courts of practically any discretion for the sentencing. And it just was the wrong way to go as far as I was concerned. And it proved very quickly that it was the wrong way to go.

L.B. That it was the wrong way.

B.W. Yeah. So, anyway, that was another thing that sticks with me.

L.B. Who were some of the other Democrats you served with, Bob. You mentioned MacManus.

B.W. There was a fellow by the name of Comer. You know, I think he's still around.

L.B. Bill Comer?

B.W. Bill Comer, right. He was, I served with him primarily on the Education Committee. He was from Pueblo, I believe. Or, no, El Paso County, I believe. And I guess in '78 he was a member of Business Affairs and Labor, but I wasn't on there. I primarily served with him on the Education. Arch Decker. Now he was a.....

L.B. from Southwest Denver.

B.W. Yes, he was a funny guy. He was a good legislator. He was a lawyer and had some good

ideas, but he also was a practical joker.

L.B. Oh, was he?

B.W. Oh, yes. Barbara Holme had a bill in which, and again this goes back to the energy crunch time, and this was supposed to be a water conservation bill in which it had to do with the size of the toilet tanks. Reduce the size of toilet tanks. There were all sorts of suggestions at the time, although I don't think that's quite the bill. People should put bricks or stones or something in their toilet tanks to take up space so they'd use less water. But anyway, she had this bill, and after a great deal of debate, it finally passed the Senate. When it passed the Senate on third reading, Arch Decker was sitting there with a tape recorder which he had taped the sound of a toilet flushing. So he turned that on, and as soon as that bill passed, you could hear this huge sound of a toilet flushing. (Chuckle) Everybody just dissolved into laughter. He was very funny. And he did a few other things like that. Another (chuckle) funny thing that I remember, and this was Bob Smedley who was a Senator from suburban Southwest Denver as I recall, from Jefferson County or Arapahoe County or a combination of the two. And during his term that ended in the middle of my term, I don't know how, he'd been in the Senate for a couple of terms. He was a lawyer, and he also wrote some books. By the time I was in the Senate, my first two years, his last two years, he, I think, must have substantially lost interest in the Senate, because he was very often absent. And the very last of that session, well you know, everybody got used to hearing, when the roll call was called, they'd call Smedley, and the clerk who was calling the role would say Smedley, absent. It just was that way over and over and over again. At the very last when we were talking about the....., everybody was remembering the Senators that were no longer going to be there, their terms had ended and for one reason or another were not going to be there, Regis Groff who was, I guess, Assistant Minority Leader at that time got up, or maybe he had become the ...Minority Leader by that time. He said "Oh, we need to remember Robert Smedley. but up until today I thought his name was Smedley Absent." And again, everybody laughed.

L.B. Well, you have to have some fun. You really do.

B.W. Oh, yeah. Sure. Both Fowlers, Hugh and Les, were members of the Senate. Dennis Gallagher was there. Martin Hatcher was a professor, I don't know what his field was at Western State University, but he was in the Senate on the Democratic side while I was there. A very fine person.

L.B. Yes.

B.W. Jim Kadlecek, the author of the infamous 3:00AM Kadlecek Amendment.(chuckle) was there as well as oh, Harvey Phelps. Good man, Democrat from Pueblo, a doctor who used to treat our ills, too.

L.B. Yes.

B.W. And I still serve with him now on the Colorado Educational Facilities Authority and now it's

got a little different name but it's broadened its reach to cultures. It's the Colorado, was higher education, now it's just Education and Culture.

L.B. Is that a statutory committee?

B.W. It's a statutory committee that has as its authority, as its obligation, the funding of certain projects by public or private education or 501 C3 nonprofit, cultural facilities with a, by the issuance of tax exempt bonds.

L.B. So you still serve with him?

B.W. Oh, yeah. I've served with him, actually, for probably the last 20 years. Harvey hasn't served that long, but he has been on for probably the last 10-12 years. So we see each other frequently. And Ken Kenny and Bill Hughes. Course, Kenny died the other day. But Bill Hughes, I saw him just the other day down at the legislature, yesterday. Both Don and Paul Sandoval were in the legislature at that time.

L.B. Paul Sandoval, he's died hasn't he?

B.W. No, as a matter of fact, I haven't seen him recently, but I know he was quoted on something not too long ago in the newspaper.

L.B. OK, I'm thinking of someone else.

B.W. Ron Stewart, who is now a member of the, a county commissioner in Boulder County, I think, or he was until very recently. Joe Schieffelin he's still around. He's a good guy.

L.B. He's from the Wheatridge area, Arvada.

B.W. That's right. That's right. He is. And, of course, Ruth Stockton who has died was in there. Duane Woodard, saw him just yesterday. He came into the Senate at the same time that I did, from Fort Collins and before his term was up Governor Lamm appointed him to the Public Utilities Commission. I remember that that was during, I think, the first year of the second session that I served in. So we were, both of us, on our third year in the term.

B.W. At that point there was a shuffling of committees, and I assumed Woodard's former position on the water committee. I don't have the name, the one that did the water rights, and I served on that committee for the remainder of my term in the Senate.

L.B. Now he changed parties didn't he?

B.W. After, yeah, after he was elected Attorney General as a Republican.

L.B. Then he changed.

B.W. Then he changed after that while he was still Attorney General. Agriculture and Natural

Resources and Energy. I became a member of that committee.

L.B. When Woodard left?

B.W. When Woodard left, yeah. Chris Wunsch. He was a south-southeastern Colorado. He was a Democrat, a member of the Agriculture Committee. I believe that was my first two years was his last two years, he was out after that.

L.B. Bob, I think you and Dottie are probably the only husband and wife that have been elected to the state Senate. Now, there have been husband and wives serve, but one of them has had an appointment to finish out a term. Is that right?

B.W. Well, I think Ben Alexander and his wife, probably.

L.B. Oh

B.W. What's her name? She's in the House now.

L.B. She served after I retired.

B.W. Yeah

L.B. But I meant served in the same house. Dottie served in the House and the Senate

B.W. Yeah, well, we had this distinction at one time. When (chuckle) she moved from the House over to the Senate. You see, after my term expired, she ran for the House seat in our House District four years after that. In '84. And then she was re-elected to that. But before that term expired, Cliff Dodge, who succeeded me in the Senate, resigned, and then she filled Cliff Dodge's term and then ran for election. But she became Vice Chairman of the Judiciary Committee, which I had. And I guess our distinction there is that we were the only two husband and wife that served as Vice Chairman under Ralph Cole as.....

L.B. Is that right?

B.W. Judiciary Committee. Then, of course, when Cole left, she became Chairman and she had been ever since.

L.B. Which is unusual, because she's not a lawyer.

B.W. That's true.

L.B. And up until that time most Judiciary Committee Chairman were lawyers.

B.W. Well, now, I think it's not the easiest thing in the world to manage if you're not a lawyer and that certainly is to her credit that she was able to do that.

L.B. Well, she's been a good Chairman, too.

B.W. Oh, yeah.

L.B. Well, Bob, anything else that you want to add to your tape?

B.W. Well, let me look at my notes here and see if there's anything else that I would want to mention. A lot of this is notations. I was involved in more legislation than I....

L.B. Than you remember!

B.W. Than I remember. And just making brief notes, some of them don't even ring a bell with me any more. But, and a lot of them were just tweaking things that needed to be tweaked. I guess that's the only thing that I would really care to mention at this point.

L.B. Well, we thank you for meeting with me this morning.

B.W. Well, my pleasure.

L.B. And if you want me to come back another day, I'll be happy to come back and you will have a folder in the oral history library and you're welcome to put anything in it that you want.

B.W. All right.

L.B. You can give me books, you can give me letters, but I really appreciate your time this morning.

B.W. Well, it's been a long time in trying to get this set and get it done, so I'm glad we have it done, and I'm glad if I was able to contribute anything, I'm glad I did.

L.B. Thank you for your time.

B.W. You bet.