

The Association for Diplomatic Studies and Training
Foreign Affairs Oral History Project

ELIZABETH J. HARPER

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TABLE OF CONTENTS

Background	
Women's Army Corps, World War II	
Occupation of Japan	
George Washington University	
Entered Foreign Service 1952	
Medan, Indonesia	1952-1954
Consular officer	
Japan	1954-1962
Japanese language training	
Consular officer	
Transferred to Okinawa	
Kobe-Osaka	
Tokyo	
Citizenship matters	
Japanese visa quota	
Japan Travel Bureau problem	
Abba Schwartz	
Visa Office	1962-1971
Quota System	
Congressional demands	
Chief of Field Operations	
Immigration Law of 1965	
Protection of US labor market	
Immigration Act of 1952	
Visa preferences	
Immediate relatives class	
Visa services during Iran crisis, 1979	
President Carter and Iran crisis	
Agricultural workers	

<ul style="list-style-type: none"> “Knownothings” and immigration law Ethnic bias in immigration Quotas 1929 law Kennedy proposal US-Canadian special relationship Act of 1970 Hong Kong Refugee program Attorney General’s responsibilities Barbara Watson BALPA Field-Washington relationship Congressman Rooney and “Little Caesars” Deputy Director of Visa Office Senior Seminar in 1971 Role of Congress Waiting periods Withdrawal of visa function from State 	
<ul style="list-style-type: none"> Montreal, Canada <ul style="list-style-type: none"> Consul General Quebecois problem Olympics 	1972-1976
<ul style="list-style-type: none"> Visa Office <ul style="list-style-type: none"> Deputy Assistant Secretary Jonestown suicides Teheran embassy hostages Consultant to Assistant Secretary 	1976-1980
<ul style="list-style-type: none"> Immigration Laws, comments <ul style="list-style-type: none"> Too many or too few immigrants Protection of laborers and jobs Internal inconsistencies Possible changes AIDS question Annual non-immigrants issued Illegal immigrants Agriculture v. Labor Departments Irish immigration 	

INTERVIEW

SUMMARY: Elizabeth J. Harper, with over forty years of association with migration issues, discusses in considerable detail and frankness her many experiences, impressions and opinions on this important, timely subject. Calling on her innumerable first-hand associations and friendships with the principal players on the Hill and in the State Department, Ms. Harper lays out relevantly the historical background for American migration policy. She then discusses precisely and in extensive detail the principal issues in the various U.S. immigrations laws since 1952, with particular emphasis on the recent Acts of 1986 and 1990. Perhaps the highlight of the interview is the way she pragmatically and specifically outlines the pressures, conflicting ideological tendencies, and especially the real-world economic and political interests--often contradictory--that make up the compromises in U.S. immigration policy, or lack of it, today. An example of her most useful approach is the way she traces the needs and demands of labor unions, employers, agricultural interests. and ethnic groups as they have influenced immigration policies formulation from the 19th century up to the present time. Specifically and as an example for the reader, Ms. Harper gives a clear, rational and logical explanation for the present-day labor certification requirements, and why they exist. Listing the many conflicting interests, she outlines not only factually but with considerable feeling what she considers to be the essence of both the technical and philosophical underpinnings of American migration policy. Her prognosis for a more balanced and equitable policy is both realistic and somewhat bleak.

BIOGRAPHY: After U.S. military service overseas in the Women's Army Corps, Elizabeth J. Harper entered the Foreign Service of the State Department in 1951. She has served abroad in Indonesia, Japan and Canada and the vast amount of her Washington experience has been in the Visa Office of the Bureau of Consular Affairs. Ms. Harper rose from a deputy position in the Division of Legislation and Regulations to the rank of Deputy Assistant Secretary of State for Visa Services. Upon her retirement in 1980, she continued on in the bureau, and in more recent years in the Visa Office, as a consultant.

This interview is part of the Abba Schwartz Foundation Oral History Interview program which has interviewed ten, senior, former--or in some cases present--leaders of the visa function. We will be talking about many more things than visas, but in general that part of the topic of migration to the United States will be our principal focus. Let's first ask B. J., as she is known to many of her friends, to give the reader a bit of insight into her background and what brought her into this, to some, difficult field of immigration and visa law. I should tell the reader, because I'm sure she would not say so explicitly, that there are few people in the world with B. J. Harper's knowledge of U.S. immigration policy, procedures and the visa function. She has written a comprehensive book and many articles on the subject, has given extensive testimony in Congress, and briefed senior officials in the State Department throughout her rich and extensive career.

Q: B. J., tell us something of what brought you to the State Department, to the Foreign Service, and something of the assignments you've had?

HARPER: That's a wonderful question Bill, because the best answer to what brought me to the Foreign Service is "sheer fluke", plus an unworthy sense of irritation. The fluke was that at the end of the war...

Q: *World war II that is?*

HARPER: World War II, yes. I'm too old to have been in any of the more recent ones. I thought about volunteering for Korea, but I it started the same day I began a course preparatory for the Foreign Service exams. The FS won. Getting back to the end of the war, I was in Manila, in uniform, and you know how much clamor there always is to "bring the boys home" as soon as a war ends. You can imagine how much greater it was to bring the girls home, so of course, they wouldn't let any WACs (Women's Army Corps members) go over to Japan as "Occupationnaires" in uniform.

Q: *"Occupationnaires"?*

HARPER: However, if we had enough points to get out of the Army, we could go as civilian employees of SCAP (Supreme Commander of the Allied Powers), which I did. The military billeting system was such that my roommate proved to be a Foreign Service secretary assigned to the Diplomatic Section of SCAP. The fluke was developing a close friendship with someone in the Foreign Service through the happenstance of Army billeting. I had never previously given it a thought. In fact, if I could have gone to Japan in the military, I might have made the Army my career. Naturally, we were a small community at the beginning of the Occupation, and so everybody knew everybody and I went to her organization's parties, just as she went to mine. The "unworthy incentive", if you will, derived from the arrival, about a year or so later, of several new, young and distinctly brash Foreign Service officers at the Diplomatic Section whom I would run into at various parties. They constantly explained to everyone that the Foreign Service exam was the hardest exam that had ever been created, and only they could possibly have passed it. And I got more and more irritated, thinking to myself, "by George, if they could, I could." (laugh) So, in 1949, I resigned my job in Tokyo, came home, went to school and took the Foreign Service exams. (laughs)

Q: *One of very few women in those days.*

HARPER: Well, there were some, you know.

Q: *Five percent, maybe at most?*

HARPER: I really don't know; possibly 5% at most. You know, the (I hope apocryphal) story at that time was that the Boards [of Examiners] accepted one woman or one black in alternate years. Anyway, there were no other women and no blacks in my class. (laughs)

Q: *You picked a good year, B. J..*

HARPER: So that was the origin of my interest in the Foreign Service. My becoming a...

Q: *You obviously passed the exam?*

HARPER: I passed the exam.

Q: *Which was a three day exam?*

HARPER: It was a three and a half day exam at that time. And...

Q: *And orals to follow?*

HARPER: And orals to follow. And, you know, (laughs) it really was a difficult exam; I'll give the guys credit for that. It was a difficult exam. Not unlike, in some respects, the "Comprehensives" for a Master's degree. Anyway, getting into consular work was also somewhat of a fluke because I had, among other things, been a newspaper reporter, earlier as a civilian.

Q: *Before you went into the military?*

HARPER: Yes, and I had done various kinds of public affairs things in the Army, such as my own radio show, when I was down in Ft. Bliss, 15 minutes a week, which I wrote, directed, announced and whatever. So when the Chairman of the Board was about to usher me out of the Hearing room, he said, "Now you understand, Ms. Harper, that with your background", Oh! I almost forgot to add that I had been in the Information Section of SCAP for three and a half years. Anyway, Mr. Greene said, (this is Joe Green, Sr. I don't know if you go back far enough in the Service...)

Q: *The name.*

HARPER: But you remember the name. I don't recall whether he was a Career Ambassador or Director General, but he was famous in the Service at that time. Well, he said "you understand that if you are appointed your career will be a little different from usual because you'll probably spend most of your time doing information type assignments," or words to that effect. So I said that would be fine. Of course at that point, USIA was not a separate Agency; public affairs were in State. Well, it didn't work out that way. My first assignment was as an administrative officer down in Medan, Sumatra, who also did what little consular work there might be. The consulate in Medan was not authorized to issue immigrant visas and there wasn't much demand for non-immigrant visas there at the time. Mostly it was citizenship-related; those were the days when we required American citizens to register with the consulate when they visited or resided abroad. It wasn't a suggestion as it is now. It was a requirement. Then when I went to Japan on my next assignment, I was put in the consular section.

Q: *So your very first assignment was overseas? After the training, after your basic course.*

HARPER: Yeah, after the basic course, I went to Indonesia. I had asked for Japan, of course; I had loved Japan.

Q: *If the Service knew that, they wouldn't have sent you there, though.*

HARPER: Well we were signing a peace treaty there at that moment, and the Department didn't want to send ex-Occupationnaires back immediately. So I had requested anywhere in Southeast Asia except Manila. They sent me to the South-Eastest Asia post that we have. If you traveled east to get there, or if you traveled west to get there, it was within ten miles of being equidistant.

Q: *You were half way around the world, from Washington.*

HARPER: You were, absolutely! From Washington. Medan, Sumatra. It was a little bitty post, and so I was sort of everything, you know.

Q: *And today in Indonesia. Is that correct?*

HARPER: It was Indonesia then.

HARPER: Yes, it was Indonesia then and we (the United States) were very popular, because the United States cast the deciding vote on whether or not they would gain their independence. In fact, the first sentence in the Bahasa Malaya language course was, "Saya tidak orang belandja. Saya orang Amerika." Which means, "I am not Dutch, I am American!"

Q: *Like me!*

HARPER: That is no longer the first sentence in the Bahasa Malaya course, but it was, I can assure you, in 1952. (laughs)

Q: *So your first assignment was '52?*

HARPER: It was '52, and ahhh....

Q: *You went through language first, some of this?*

HARPER: Well, no, you learned it or you didn't, as the case may be, on the spot, on the job. Of course in those days you had to have passed a foreign language exam to be appointed. However, I did learn a fair amount of Bahasa in my two years, and translated a series of news articles as political reports. However, I continued to ask for Japan, and sure enough got Tokyo as my second post, where I was put in the consular section, in

passports. So I first became really more of a passport specialist for some years than anything doing with visas.

Q: Lots of American military that needed passports?

HARPER: Lots of American military there, who were getting married, and having children, or even if they brought their wives out from home, a wife who already had children, others still got born, and so they needed passport and citizenship documents just constantly. It was a very busy, very busy passport section.

Q: In those days nationality was one of the most complex subjects that even exceeded visas, in terms of knowledge need.

HARPER: I thought so. But I did also have an interest in visas. I had written a graduate paper, at G.W. ...

Q: You did your undergraduate and graduate work at G.W.?

HARPER: Yes.

Q: Are you from Washington?

HARPER: No. I was here because I was going to take the FS exams, and I decided this was where to get the best education in order to take these exams.

Q: Where did you come from? What is your place of origin?

HARPER: My place of origin is the great Middle West. I was born in Oklahoma, lived in Texas, Kansas, Missouri, Illinois, Nebraska, and Colorado, which was just a little far west for the great Middle West, but nonetheless, ... I claim Kansas City, Mo., as my hometown.

Q: You went north, but didn't make it to Canada?

HARPER: Yes, yes.

Q: You will, however.

HARPER: Yes, in time. Anyway, I had written one of my graduate papers on visas, to the effect that the 1924 Immigration Act was a contributing factor to Pearl Harbor. You know, irritation of the Japanese, sensitivity of the Japanese, kind of thing. I spent an entire Christmas vacation more or less living in the Library of Congress going through the 1924 papers, which, incidentally, was fascinating. When you looked at the front pages from 1924, and 1952, they all looked alike. They were both election years, they were both

years in which we were having political scandals, they were both years in which the Congress was investigating everything under the sun.

Q: And everybody was investigating Congress?

HARPER: And everybody was investigating Congress. It was just a fascinating parallel in history. In any event, I did have this sort of latent interest in immigration, so when I started issuing visas, in a subsequent post, it struck me as interesting too, and....

Q: Not in Tokyo?

HARPER: No, no, in Tokyo I was strictly in citizenship. But I've been very lucky. I've always served with people from whom I've learned a lot. That helps, you know, and my colleagues there taught me an awful lot about the Foreign Service. Then I went to language school. I was the first woman Japanese Language Officer.

Q: Did we have a Japanese language program then?

HARPER: We did, indeed, and we had a school in Tokyo; so I spent a year and a half there. After that, I was transferred to Okinawa, which was before it had receded back to Japanese control. We were still controlling Okinawa at that point. And,...

Q: What did we have? We had bases there, but we also had a large American community?

HARPER: Yes, in the military and civilian employees sense. Not many others. We were literally running the government of Okinawa, at that point, the Ryukyu Islands. Having managed to get back to Japan, I managed to stay. Between the time when I went into that Tokyo assignment and the time I came home, I'd been there roughly eleven years.

Q: So that was 1952?

HARPER: I left Medan in 1954.

Q: 1954, when you got to Tokyo, and then eleven years later?

HARPER: Well, I came home the first of July, 1965. It was ten years, really, ten years plus. Because I didn't actually get to Tokyo until about January or February of '55.

Q: And then after four years, you went to Okinawa, then back to Tokyo?

HARPER: I went to Kobe Osaka. It was Kobe-Osaka in those days. It's Osaka-Kobe today. (laughs) My assignment was as Chief of the consular section, and ...

Q: How big of a post was it? It was a consulate general, I presume?

HARPER: It was a consulate general. We had, in addition to the Consul General, we had one economic officer, about four consular officers, admin officer--except the admin officer (laugh) God love him, really diverted my activities. First of all, he persuaded the Department to let him buy a house, an old house, at an excessive price, for a principal residence (that is, for the Consul General), assuring the Department that it needed no initial repairs, thus justifying spending all this money for it. Actually it needed about \$25,000 worth of repairs. Then two days after all of the papers were signed, he transferred to Tokyo and I became Acting Administrative Officer and responsible for all those repairs in order to make the place habitable! Anyway, that's a different story, and unrelated to immigration, but it did take a lot of time away from my consular duties.

Q: But as Chief of the Consular Section, you had not only visas, but you had the whole schmear.

HARPER: I had the whole schmear. Yes, in addition to visas, you know, we had Americans in jail, we had people who were losing citizenship, or who were regaining it, and lots of seamen. You will recall, Bill, in the early '60s, which is when I was in Kobe, during the whole period of the late '50s, early '60s, the Supreme Court was frequently invalidating one loss of nationality provision or another. So people who had been technically expatriated, all of a sudden had not been expatriated, because the related provision of law was found not to be constitutional.

Q: We were being challenged. This very, very strict biased, if I may use the word, citizenship approach, including on women, was repeatedly challenged, and it kept falling. So today, I think we might say, B. J., it's pretty hard if not impossible to lose your American nationality.

HARPER: I think, actually, it is. And in many ways, I regret it. However, that's beside the point.

Q: In any event, you had the product of these changes when you were there.

HARPER: Yeah. Don't misunderstand me, I don't mind making it more difficult to lose American nationality. I do mind, speaking personally, making it unduly too easy to gain American nationality. I think it demeans the importance of ...

Q: Green card and five years' wait.

HARPER: Well, it isn't so much the green card and five years' wait. I think immigrants should have a reasonable chance to naturalize if they want to; our original ancestors here--mine came before the Revolution--were not native-born U.S. citizens. What bothers me is the law regarding, for instance, the transmission of citizenship. John Doe, American citizen, or Mary Doe, American citizen, goes overseas, marries some alien, makes his or her home in that foreign country forever, has a child. We have watered down the length of time the American citizen parent must have been resident in the United States in order to

transmit citizenship. We have watered down the length of time, if any, I think we may in fact have eliminated, the length of time the child, who becomes a citizen at birth, has to come and spend in the United States, in order to retain citizenship. I think that's unfortunate, because we end up with a number of American citizens, in name only, who then become the responsibility of American consuls to protect.

Q: That's a different question. But the first question is, of course, what makes an American? Attitude, loyalty, all these words that you and I would say make an American. Some people argue, however, that those issues aren't necessarily what makes an American.

HARPER: Well, I continue to believe no matter what nationality it is, I don't care whether it's American, British, Indian or whatever, it should have an element of allegiance involved. (laughs) And I really feel that these people do not, in many instances, have anything other than the sense of, "gee, it's handy to be an American citizen, because that way I can go there if I really want to sometime," and no sense of emotional attachment to this country.

Q: But, of course, you and I as consular officers, or former ones, never would let that enter into our judgement.

Ms. Harper: Well, it doesn't enter into my judgment if the person meets the requirements of the law. What I'm arguing about, against, actually, are the current requirements of the law. And I really do think that they demean the importance of one's citizenship, whatever the citizenship may be.

Q: Versus whether they appear in front of you and the consular establishment as an American citizen, burning the American flag and swearing how much they hate America. Even that?

HARPER: Even that. Even that. I usually made people wait 24 hours and come back before I would take an oath of renunciation, incidentally.

Q: Oh, I think that's, as I remember, part of the law, or part of the procedure?

HARPER: Well, no it wasn't part of the law. But we did, I think, finally make it part of the procedures.

Q: Yeah, it was indeed. I remember sending...

HARPER: Before it was a procedure, a standard procedure, I did it. It was one of the things I learned from the more experienced officers in Tokyo.

Q: Well, you're probably the source of some of our subsequent standard procedures! (Laughs) Or laws!

HARPER: (Laughs) I'm the source of a number of standard procedures, because of my duties in connection with the '65 Act.

Q: We're almost there, aren't we? We've gotta get Japan out of the way, but...what about the visa function in your many years in Japan? And obviously when you were in Kobe-Osaka it was not what it is today, especially in terms of visa restrictions, inability to travel, and the like. But what were the visa issues there at the time?

HARPER: Primarily the bona fides for non-immigrants, because, of course, with the quota on Japan of a hundred...

Q: Which was a hundred for all Asian countries.

HARPER: There was always a question as to whether or not somebody was a bona fide non-immigrant. And a great many were.

Q: What was the main reason for...

HARPER: The problems, however, were essentially not exclusively with the Japanese who would come in and try to con us into believing that they were just making a short trip and would obviously come back after seeing the Grand Canyon, or whatever. You know...

Q: The famous Niagara Falls or Grand Canyon. Or a funeral.

HARPER: Yeah, and surely, or a funeral. Another real problem was with Americans, who were dishonest enough to try to help them fraudulently.

Q: Why would they help them? What was their connection. Friends?

HARPER: I don't know. I mean, I remember a couple of missionaries, one roman catholic and one a protestant, both of whom submitted fraudulent documents on behalf of, and otherwise advised Japanese applicants. Suggestions on what kinds of arguments would persuade the consul to give him, in both cases it was a him, a visa

Q: God's law being more important and overriding than of any national law.

HARPER: I guess so. They were also a problem when it came to children, I might add. Missionaries, more than once, would come in with a child who quite clearly was not their child, and try to register the baby as an American citizen, as their own offspring. But, in any event, I don't want to pick on the missionaries, because most of them were absolutely wonderful, but there were some, who, as you say, I guess they believed that God's law was more important. Although, none of them ever expressed it that way to me. Whatever their motives, there were occasionally problems. I also had the interesting experience, one time, of ruling off limits our consular office, and more accurately, the consular section, to

any member of the Japan Travel Bureau, which is a Government agency. (laughs) The reason was that one of their personnel was forging documents for people who were using JTB as a travel agent, and applying for visas. Well, as far as I was concerned, that made not only that individual ineligible under 212(a)31, as it was in those days, but it also made JTB a hazard. So I informed the embassy, and I informed the Japan Travel Bureau that I was sorry but no representative of their organization was going to be admitted to the consulate general in Kobe-Osaka, for a minimum of 90 days. At that time they could perhaps persuade me that they had sufficiently trained their people that this wouldn't happen again.

Q: I don't think consular officers could quite do that these days!

HARPER: Well, I don't know if they could either, but I certainly did it, and I expected howls from the Embassy because of the Japanese government connection, but I didn't get any. They said more power to you! And, meanwhile, this young man was transferred to something like baggage handler in Shikoku. (laughs)

Q: Rather than to jail?

HARPER: Rather than to jail. Yes, but that ...

Q: You have introduced fraud as obviously a key, an emotional issue for all of us associated with visas. But I never thought of fraud with the Japanese, and certainly not in those times. You've opened up the subject of purposeful misrepresentation. Were the applicants largely people who were leaving for economic reasons? What was the basis, if there was one particular one for fraud, or misrepresentation?

HARPER: Oh, they were, ummm....well, for instance, a kid who said he wanted to go to school in the U.S., or a businessman, who really wanted simply to get lost in the U.S. and work. Sometimes it was sad, because the applicants would have been found eligible for a visa if they had not engaged in misrepresentation. But they figured they had to do something special to get a visa--instead of playing it straight. We issued more than 5,000 non-immigrant visas the year I arrived--which was so unusual that the Consul General made a ceremony of personally handing the applicant his visaed passport in his office--so obviously some people were *bona fide*.

Q: Also, Japanese were very loyal?

HARPER: Basically, the Japanese are very honest...

Q: But also very close to Japan. They are like the Chinese in not rejecting their culture.

HARPER: No, they don't reject their culture, and they shouldn't. But they do, you know, harbor a desire to go the United States.

Q: Probably it was the quota, the limited quota?

HARPER: And the quota got in the way. They had relatives in the U.S., there was no prayer of ever getting a visa, however, an immigrant visa. And,

Q: Post World War II problems?

HARPER: It was mostly a matter of there not being visa numbers available--even for people who would be fine immigrants. In the JTB case, our office suddenly found itself getting roughly identical letters, business invitations, purportedly from the United States for, say, Hiroshi Watanabe, or whatever the name would be. They would have misspellings, they would be written in what was usually known as Japlish, you know, Japanese English, and ummm...and the fraud was perfectly apparent.

Q: Today we have so-called sophisticated counter-fraud, anti-fraud measures. Extensive! Probably in those days we had no organized way, as a State Department, and certainly as an institution, to fight this.

HARPER: We certainly didn't have any institutional procedural setups, but clearly everybody was supposed to be using his head, and if the same travel agent is handing in lots and lots of passports, with lots and lots of documentation, all of which looks as weird as a three dollar bill, your suspicions are going to (laughs)...

Q: That's easy anti-fraud detection.

HARPER: That's very easy anti-fraud. You know, it really is. Anyway, you started this by mentioning that this is being done for the Abba Schwartz Foundation, and I have a very clear recollection of having breakfast with Abba one morning.

Q: What was he at the time. Was he then the Administrator?

HARPER: Yeah, he was the Administrator at the time, and he was in Japan for a country-wide Consular Conference, and I was attending from Kobe. The conference was in Tokyo. I was due for transfer, in fact, I was overdue for transfer actually.

Q: This is give or take mid-'60s?

HARPER: This was '65. This was early 1965, probably January, February, March, somewhere in that neighborhood. I had told Abba I wanted to see him at some point outside the sessions, and he said, "Fine, why don't we have breakfast tomorrow morning," fine...

Q: Did you know him before at all?

HARPER: Not really. I had met him on one of my home leave trips, but outside of that I didn't really know him. So we had breakfast, and I explained to him that I knew I was due

for transfer, or overdue for transfer, and although I didn't want to hurt his feelings, or suggest that I didn't enjoy my work, I wanted to make a plea that I not be assigned to the Consular Bureau. I needed, I felt, an excursion tour in some other part of the foreign affairs business. The Service tends to peg people, as you know, and so I felt very strongly that if I could get an outside assignment, maybe on the desk, you know, the Japan desk...

Q: Broadening experience.

HARPER: Sure, somewhere, almost any old where. Meanwhile, USIA and any notions of being an Information officer, you know, had long since disappeared, contrary to Joe Greene's assessment. In any event, Abba seemed very sympathetic to this. And he went back to Washington at the end of the conference, and about three weeks later, what did I get but travel orders ...

Q: To the Consular Bureau?

HARPER: First of July, head to the Consular Bureau. Yeah, exactly. I was not really happy about the whole thing. I was assigned to VO (the Visa Office). And so when I arrived in Washington, the first thing I did was present myself to (laugh) Abba and say, "Thanks a bunch!"

Q: Where were you assigned in the Visa Office?

HARPER: Regulations and Legislation. I said, "what am I doing in the Visa Office, after our lengthy discussion about broadening assignments?" and he said, "Well, the Director of the Visa Office said that of all the Officers who are available, you have the finest reputation for being able to write well."

Q: Who was the Director of the Visa Office?

HARPER: Ray Ylitalo. "And he needs somebody who can write well." So I went into Reg's and Leg's.

Q: That's the acronym or the brief phrase for Regulations and Legislation?

HARPER: Yes, which was headed at the time by a wonderful woman named Hallie Mae Pryor, who unfortunately died a few years later. Again, you know, I learned an enormous amount from Hallie. The important thing at the time was that the '65 Act was just about to be enacted. So the next time that I saw Abba was the day that my household effects were due to arrive--from Japan, from Missouri, and from Kansas, because my father and my Aunt were going to join me in Washington--and so I had household effects arriving from everywhere over the weekend. I shall never forget it, because, on late Friday afternoon, Abba got a call from, I suppose, the Chairman of the Committee, I don't know, saying, you know...

Q: Chairman of what committee on the Hill?

HARPER: Chairman of the Judiciary Committee of the House. I assumed that it really was the Chairman and not a staffer who called Abba. And what he said was, "By Monday morning, we would like to know, if we pass this Act, what effects will it have on immigration from all over the world? That is to say, how many visas is it likely that each of the countries would get under this legislation, if enacted?" Whereupon Abba called the Visa Office, and instructed Frank Baker, who was our numbers cruncher, and his boss, Helen Mulhearn, and suggested that they enlist or draft somebody else to come over and spend the weekend in his office with lots of adding machines, and figure out exactly what would happen if the bill that became the '65 Act were passed.

Q: Because in those days, there was minimal amount of computer assistance, if any.

HARPER: There was none.

Q: None. It was all green books, and ledgers, and

HARPER: Ledgers, and yes, they were green, I think, as a matter of fact. And adding machines, you know, big adding machines. I mean, we didn't have these little pocket calculator type things.

Q: And those studies, probably generic studies, about movement of people from certain countries, or...

HARPER: Well, not generic especially. We had very good statistics. We knew what the backed-up demands were. It seemed reasonable that if these people were suddenly in a position to get 20,000 visas a year, instead of 5,000 or if they were in a position to get 20,000 instead of 105, and our books showed a backlog of 80-100,000 or more, for a number of countries, obviously lots more...

Q: Demand and supply?

HARPER: Lots more of them would come. So you're right, it was a supply and demand equation, for every country in the world in 1965. There were fewer countries then, fortunately for us. I should maybe explain my "backlogs" comment. Although some countries like Great Britain, Germany, and Ireland, for instance, had reasonably large quotas, most did not. The number of people who wanted to immigrate was much greater than the quota and therefore the law authorized the Department (the Secretary, actually) to "maintain lists" and "make reasonable estimates." So whenever anyone registered to immigrate, he or she went on the waiting list until such time as a visa number might be available. I don't recall the exact numbers of those days but there were well over a million people, probably some multiple of a million, on the waiting lists when the '65 Act came along. When asked about specific places, our answers were on the lines of, "It will take until 2073 to issue visas to all the Chinese--or until 2035 for all the Italians--now on the

lists", even though it was obvious that the people on the list wouldn't live that long. Those answers were based, of course, on the quotas then in effect. Those are the records we used.

Q: And all these calculations and conclusions were over that weekend? Instead of unloading your furniture?

HARPER: Over that weekend. Well, by the grace of heaven, I had a very dear friend with whom I had stayed while apartment hunting, who was conscripted to go (laughs)...

Q: Just like you were conscripted! Let me ask an unacceptable question, B. J.. With the law out there being written, being thought about--and for a period of time, I certainly presume--why hadn't we anticipated this question?

HARPER: I don't know that we hadn't anticipated the question. I think probably we had answered the question, in very broad general terms, you know the kind of sweeping generalizations that people use when they testify. But the Chairman wanted a country-by-country breakdown, as to who would use how many visas, if they changed the law to abolish the quotas, and let any country use up to 20,000 visa numbers. So, that's how we spent that weekend. And that was the next time I saw Abba; and it was one of the last times, as a matter of fact that I saw Abba, because VO was in a different building. But, in any event, the interesting thing is, of course, this exercise did not include the Western Hemisphere. It was only Asia, Europe, Africa--everywhere but the Americas.

Q: Well, it included them in the sense of it kept them in this unfavorable or how should, you would be able to characterize it better than I, position that they had been in, which was not equal to...yes...

HARPER: Well, the Western Hemisphere at that time was in a wonderful position, because we didn't have any numerical limits on Western Hemisphere immigration--at least, not for independent countries in the hemisphere. And, for the time being, they were going to stay that way. So, we did the Eastern Hemisphere, which is everything except North and South America. And our estimates were right, within a few hundred, for every country but one. That exception was Ireland, which is why we have been having very peculiar legislation in recent years, relative to Ireland.

Q: We should tell the reader that eventually you will get into what I call the Irish law.

HARPER: The Irish question, yes. I will be glad to get into the Irish question. But, in any event, we really did come very, very close. It was an interesting exercise, and taught me a great deal about not only supply and demand but the nuts and bolts of implementation of the law as distinct from legal questions of eligibility and consular procedures.

Q: How long were you in Reg's and Leg's?

HARPER: I was there for a couple of years, not quite three, I think. When the chief of the Field Operations division, as it was called in those days, retired, I filled her job.

Q: *Which basically was watching out over the posts in the field.*

HARPER: Looking out for the posts in the field, developing procedures, and so on. Now, of course, you understand that with the '65 Act, we created a whole new arrangement for how to obtain, more accurately, how to apply for, an immigrant visa. All of the ground rules were different, because of the change in the law with regard to the labor certification. It was the labor certification that took us off-base in our calculations about Ireland, of course. But, in any event, I had participated in developing the procedures, I had participated in developing the regulations, and most of all I had created a series of airgrams that went out after the Act actually did pass, trying to explain it.

Q: *Which was when? What's the date, roughly?*

HARPER: I don't recall the date when the Congress passed it, but it was signed on October 3, so that's the effective date of the legislation.

Q: *In 1965?*

HARPER: October 3, 1965, and it was to go into effect on December 1, 1965, which did not leave an awful lot of room between point A and point B...

Q: *Basically, what we're talking about is having people eligible who weren't eligible before.*

Q; That's right, and having a lot of people ineligible who had previously been eligible. In any event, I had developed this series of airgrams, explaining to the field--you remember Ray Ylitalo wanted me because I supposedly could write well...

Q: *The presumption was that they read it.*

HARPER: The presumption was that they could read.

Q; And carry out the instructions.

HARPER: Well, that was at least a fond hope! So, I wrote all these airgrams explaining the new provisions and so on, and the sixth one was known familiarly as, "use your head!" It explained, in general, that, since there were people who would be severely disadvantaged by the new labor certification requirement but who at the moment didn't need one, consular offices should take that into account when doing their scheduling and, if necessary, postpone appointments for people who would not be adversely affected, in order to accommodate the people who would be, unless there were some extreme urgency...

Q: Let's pause just a moment though, on labor certification. You and I know well what it means, but just a short definition.

HARPER: Well, let me get back to that later, Okay? Finish this thought. So number six said in essence, "use your heads." Something like eight days later, Ray Ylitalo called me into the office, bright and early, banging his fist furiously, and waving a sheaf of cables at me, and shouted, " B.J., damn it, tell them to stop using their heads!" (laughs)

Q: "Because the heads are different from post to post!"

HARPER: We had gotten back some of the silliest inquiries and other responses anybody had ever seen. Number seven and eight had already gone out, but number nine of the airgrams was the "don't use your heads"...

Q: Go back to the first five?

HARPER: They were basically explanations of the new provisions. You know, I hate to divert this discussion, but it occurs to me that my labor certification references may require explanation for those who haven't been at this as long as I. It's important to remember that one of the central themes in immigration history, and immigration policy, has been protection of the U.S. labor market, starting from roughly the early 1880s; I think the first contract labor law was in 1884. The contract labor law precluded the entry of anyone who had prearranged employment, that is, a labor contract. It was repealed by the Immigration and Nationality Act of 1952. In the '52 Act, the Secretary of Labor was required to issue determinations, as it were, on what areas had a oversupply of what kinds of labor available. For example, if an applicant wanted to come be, let's say, a dressmaker in Los Angeles, she was out of luck, because there was a surplus of dressmakers in Los Angeles. On the other hand...

Q: Would be turned down?

HARPER: Would be turned down. That was a ground of ineligibility.

Q: Even though everything else was fine?

HARPER: Everything else could be splendid. But, if you wanted to seek a job in an area in which there was a large supply of similar workers, sorry, but the labor requirement had not been met. On the other hand, if that applicant decided that, well, as a matter of fact, she had a cousin in Chicago she could stay with, and could undoubtedly find a job as a dressmaker in Chicago where there was not an oversupply so she wanted to go there, then she became eligible for a visa. Well...

Q: And this was 1952?

HARPER: That was section 212(a)(14) of the Immigration and Nationality Act, as enacted in 1952. It replaced and repealed the contract labor laws that had been in effect since the 1880s. In 1965, Congress reversed the structure of the labor certification requirement. Instead of people being eligible unless they wanted to go someplace where there was an oversupply of such labor, they now had to get an affirmative certification from the Department of Labor that their employment would not adversely affect the employment of U.S. residents, citizens or alien, in the same area, same line of work, and so on. So that in order to register, let alone apply for a visa, if you were coming to work rather than coming as a relative of a U.S. citizen or resident alien, the first step was to get a labor certification.

Q: Wasn't that a big difference in approach?

HARPER: This was an enormous substantive change in procedures. Under prior law, the question of eligibility with regard to the labor requirement was handled like the question of eligibility under criminal or any other ground of excludability. That is, it didn't arise until the end of the process when the applicant would appear for his or her interview for issuance of a visa. At that point, in connection with public charge among other things, the applicant would be asked where and at what he or she intended to work. That's how the situation I described a moment ago would come up. Because all grounds of ineligibility were considered at the end of the line, so to speak, there was no preliminary qualification for registering with a consular office as an intending immigrant. People would simply write or go into a consulate or embassy and say "my name is such-and-such, address is so-and-so, and I want to emigrate to the United States", and that would get their names entered on our records. The requirement of the 1965 Act was that there be an affirmative certification in advance, saying, in effect, that the Labor Department agreed that this employer, who wants to hire this named alien, has not been able to find a suitable employee in the U.S. and will pay sufficient wages not to impact adversely on U.S. workers similarly employed. Now, obviously, lots of people, perhaps the majority of non-relative applicants, would be unable to obtain such certifications. That being so, there was no point--in fact, it would be idiotic--from the standpoint of both the applicant and the consular office, to register vast numbers of people, unrealistically get their hopes up, go through all the procedures and then find them ineligible at the final step. In other words, that inversion of the requirement created a presumption of ineligibility for all would-be immigrants subject to the labor certification provision. As a result, we had to make the receipt of a labor certification a requirement for registering--the first step, rather than the last--for intending immigrants who were not classifiable as relatives of U.S. citizens or resident aliens or in some special status.

Q: One small question, here. From what I'm hearing in that clear and detailed explanation of labor certification, that requirement didn't affect all immigrants. That is, if you weren't going to enter the labor market, you didn't have to meet this test. Is that correct?

HARPER: Yes and no. Under the law it specifically did not apply to people who were coming in what are called the relative preference classes and didn't apply to Immediate Relatives whether or not they would go to work. It applied only to people coming in the worker preferences, the non-preference classification, and natives of the Western Hemisphere. By regulation, however, the State Department and the Immigration Service agreed that if a non-preference or Western Hemisphere immigrant was coming here as a retiree, or for some other non-working purpose, we couldn't very rationally apply the labor certification requirement. So we waived it by regulation, but the law required one.

Q: The non-preference person would have to prove that he did not need a job. Was not going to become a public charge.

HARPER: Yes, he needed to prove two things: he didn't intend to work and had ample resources without working--that is, he wouldn't become a public charge, he had sufficient funds, etc., so that he wouldn't be driven into taking employment; and he had no desire to take any employment, because he was 102 years old, maybe physically incapacitated, and unlikely to find employment, or whatever. But aside from our regulatory change in the applicability of the labor certification provision, there was also an interesting statutory quirk. What the 1965 statute said was that the Western Hemisphere applicability did not include those who were the parent, spouse or child of lawful permanent residents.

Q: That sounds like the "Immediate Relative" class but applied to alien residents

HARPER: Indeed, at a casual glance this did appear just to take cognizance of the fact that the preference system did not apply to the Western Hemisphere and I'm sure it was intended to try to equate with the Eastern Hemisphere exemption for Immediate Relatives. Can't you just hear them in debate saying, "Well, hey, we don't apply this to Immediate Relatives of in U.S. citizens in the Eastern Hemisphere: Shouldn't it be the same here?"

Q: Sounds reasonable

HARPER: Sure. Actually, however, it went well beyond the Eastern Hemisphere "Immediate Relatives"--parents, spouses, and children of U.S. citizens--because a parent is not an Immediate Relative unless the petitioner offspring is at least 21 years of age. The Western Hemisphere "parents" provision did not contain that distinction. As a result, the Western Hemisphere parents of infant U.S. citizens were exempt from the labor certification requirement but the Eastern Hemisphere parents of a U.S. minor child were not. Putting aside the question of fairness, the real problem that this caused was a burgeoning of births in the U.S. by border-crossers--a sort of legal fraud, as it were. It's a classic example of how a seemingly perfectly reasonable idea, equalizing treatment in the two hemispheres, can wind up having unintended consequences. All because Members usually (if not always) think about broad "policy" issues, not the details of how things work.

Q: But that didn't last forever?

HARPER: No, that exception was dropped--that is, it was no longer necessary and was therefore repealed, when the preference system was made applicable to Western Hemisphere applicants under the 1976 amendments. Anyway, to get back to the subject--the change in the labor certification requirement in 1965--as a result of that Western Hemisphere quirk, the provision was weakened at the same time it was being strengthened.

Q: This change in the labor certification--the strengthening, if you will, of the identification of whether a person you let come or not come into a certain area to do a certain job--is that a result in large part of labor unions bringing pressure to bear? Or what caused this?

HARPER: I think probably organized labor, but organized labor wasn't a factor when this started. As I suggested a minute ago, protection of U.S. labor has been one of the benchmarks since the 1880s. On the other hand, it could have been just a spin-off of an idea that arose in the public charge context. Starting in the early 1960s, maybe 1961, there was a "pilot program", so to speak, related to public charge problems, that required Mexican applicants who submitted job offers in support of public charge eligibility to have those job offers endorsed or some such thing by the local, maybe it was State, Employment Service. I don't remember the particulars very well because I was in Japan at the time, but it seemed to be an effort to confirm that the job offer was genuine and the job itself was permanent, not temporary, in nature. It applied only to Mexicans applying in Mexico, however, so it was not part of the pattern I've mentioned. I really do think that current policies can be fully understood only if the long-term patterns are kept in mind--even if current policy is at odds with the pattern.

Q: You described the pattern of protection of labor. What are some of the others?

HARPER: Well, there are several patterns, with respect to which the particulars may have differed over the last hundred-and-some years, but the thread, the concept, the underlying intent, has been roughly the same all the way along. Another one is the protection of the U.S. purse. You know, even before we had the contract labor laws, we had legislation that barred the entry of paupers and beggars. People who would otherwise fall into the public welfare area. We still have such laws.

Q: Public charge?

HARPER: Public charge, we call it nowadays, but, you know, it's the same provision, it's the same concept. Public health is another. We have always had provisions barring people who were likely to be a threat to the public health in the United States.

Q: This is how a sponsor, sometimes, is misused. Many people think you must have a sponsor to come here. A relative, or not, it's the idea that someone will step in and pay the bills, if you become unemployed?

HARPER: Well, sponsorship, financial sponsorship does come in obviously. Particularly in family cases. You know, it's fine for somebody to be entitled to status as a sibling of a United States citizen who has petitioned for him. But if he hasn't got a job, and doesn't have an awful lot of money in his pocket that he's accumulated where ever he is...

Q: The assumption is that where ever he is, he will go to work?

HARPER: The assumption is that if he is of working age, he is going to go to work, and moreover that he is going to have to go to work, but that may take some time to achieve. So family members do provide affidavits of support. But as I say, these threads have been in our immigration policy for well over a century, and I think the pressures that cause more recent immigration policy to be developed or to be extended, are widely, not so much misunderstood, in the general public as simply un-understood, not understood. If you talk to people who are not in our business, you sometimes get the feeling they think immigration legislation springs from the mind of some Congressman with no midwifery or anything, rather like Athena, from Zeus. The fact is there have always been pressures, and the unions, with regard to protecting American labor, is one kind of pressure group. The 1986 legislation, better known as IRCA--Immigration Reform and Control Act--which might have been enacted several years earlier, was stalled by fights between organized agriculture and its interests on the one hand, and the interests of organized labor on the other hand. So you have competing and conflicting interests. The ethnic groups, ummm...which have been around for at least a hundred years...

Q: How about from the beginning of our country?

HARPER: Well, I don't mean the group groups, I mean actual organizations, have always brought a significant level of pressure with regard to family immigration, because family immigration was the traditional immigration up to the time that we started having quantitative limits in the early 1920s. So, there are various things. Rarely, rarely is it a matter--as a Foreign Service officer I regret to say this--but rarely is it a matter of foreign affairs. (laugh) Maybe as topics come up I'll think of examples where foreign affairs were a factor, but it's usually domestic pressure of one kind or another.

Q: Certainly on immigrants.

HARPER: Certainly on immigrants.

Q. The other part of the visa function is the non-immigrant and there's where foreign policy gets a little more active.

HARPER: Come to think of it, a non-immigrant instance does come to mind. I wasn't directly involved but because of my position, I was well aware of it. There has long been a humongous *mala fide*, non-*bona fide* non-immigrant applicant problem in the Philippines and a consequent high refusal rate. This was taken as sort of an insult to the

national pride. At one point, the Foreign Minister or maybe the President informed the Ambassador, that, unless we started to be more reasonable about issuing non-immigrant visas, they would feel compelled to declare the consular section chief *persona non grata*. The Ambassador, with great equanimity, replied, "Fine, that's certainly within your rights. Of course, if you do I will feel compelled to close the consular section entirely and no visas will be issued." Case closed. If memory serves, that was when I was Deputy Administrator in 1972-73. Of course it doesn't represent any effective pressure, but it does point up the relationship between visas and foreign relations.

In another non-immigrant situation, for instance, I was Deputy Assistant Secretary for Visa Services at the time of the Iranian crisis. We had previously tightened up on visa issuances to Iranians ...

Q: Specifically this was 1981?

HARPER: This was 1979. In February, the revolutionaries had forcibly closed our consulates, burned one or more, as I recall, and we had sort of tightened up at that point. Then in November, when they took the embassy and made all of our colleagues hostages, there was a great deal of scurrying about as to exactly what we would do and how we would do it, and Visa Office was, of course, closely associated with this. Dick Scully, whom I think you have interviewed or will, as our leading officer on regulatory and legislative affairs, drafted up various scenarios and legal documents for the President so he could make a choice as to whether he wanted to use this provision of law or that provision of law or something else to do whatever he might decide to do.

Q: And, principally, what were we trying to do?

HARPER: Well, the questions were, you know, were we going to continue to admit Iranians who already had visas, were we going to continue to issue them visas, were we going to throw them out of the U.S.? Or any combination of the above. Exactly what were we going to do? What was going to be our policy?

Q: In sort of retaliation, or at least reaction, to what they had done to us?

HARPER: Well, certainly in reaction. Retaliation is not a good word to use in this context because we were beset with conflicting desires. First of all, of course, we desperately hoped that we would get our troops back in a hurry. I use the term "troops" loosely, in the this case to mean Foreign Service people, and the other U. S. government employees who were there. Secondly, we were in hopes that a more moderate group of Iranians might eventually take over, so we didn't want to do too much damage to those folks. Third, we didn't want to do anything that might, ahhh, my first comment, of course, relates back, that we didn't want to retaliate in any way that would further...

Q: Make it worse?

HARPER: Yes, that would make the situation for our hostages worse. Secondly, we didn't want to do anything that would really make the moderate Iranians' situation worse. And, last but not least, we were always beset by humanitarian concerns; there are a great many ummm... religious minorities in Iran, all of whom were having serious difficulties simply because of the fundamentalist Shiite revolution...

Q: As well as political interests of ours.

HARPER: Aside from any political interest of ours, just purely humanitarian, we had a problem with respect to those people. So, the question was what would we do? We sent over to the White House these various pieces of paper, these options. The President decided first that the preferable way to handle this was for him to re-delegate his authority under Section 215 of the Immigration Act to the Secretary of State and the Attorney General. Having that in place, when the time came that we (the USG) were a little more sure of exactly what we wanted to do, then we would be in a legal posture to do it quickly. The amusing thing is, it seems he signed this delegation, put a note on it saying, "Do not release this until after consultation with the Secretary of State and the Attorney General," but some underling apparently didn't read the note and so released it! (Laugh) And all of a sudden, you know, we're hearing about this Executive Order that the President has signed, which we didn't know the President had signed because there hadn't been this consultation. Well, in any event, although that was in late November, I think, the President didn't finally decide exactly the precise steps he wanted to take until Easter.

Q: This being President Carter?

HARPER: This is Carter. And...

Q: And the Secretary of State at this point was Cy Vance.

HARPER: And David Newsom, whom I dealt with mostly, was the Under Secretary for Political Affairs. The number three man in the Department. So, on Easter Saturday...

Q: Things happen on weekends in this business.

HARPER: Early in the morning, I got a phone call saying, "Mr. Newsom wants you in the office immediately (I live 30 miles away) because the President has decided that we're going to invalidate all visas to Iranians beginning this weekend." So I called Dick and he and I hurried into my office and began what became a very long day back and forth to Newsom's office with assorted papers, you know, press guidance and specific Q's and A's, (questions and answers), as well as the tentative regulations we had prepared in advance, ready to go whenever needed, once we knew what the decisions were. Naturally they had some holes in them that had to be plugged because we hadn't been quite sure what the decisions would be.

Q: Obviously the Immigration Service is playing a role in this matter.

HARPER: Yes, the Service was playing a role, except that the Service's role was less than ours at that point because this dealt specifically with visa regulations and they deal with admissions; ...and what the regulations called for when announced was, all outstanding visas, non-immigrant visas, and I believe immigrant visas, at least we considered the question of immigrant visas, ahhh...

Q: *An Iranian is an Iranian.*

HARPER: Ummm, well, immigrant visas have a short life. They're only valid for four months, whereas non-immigrant visas can be valid for up to ten years, or eternity or whatever and so...

Q: *Therefore, less controllable than...*

HARPER: Yeah, so there are lots of those outstanding. Any outstanding visa held by an Iranian outside the United States (that particular regulation didn't affect the people here) was invalid as of right that minute, unless and until endorsed by a consular officer on or after--I believe the date was April 7th, 1980.

Q: *But it was re-examined, started all over again.*

HARPER: We re-examined, not the basic presidential decision, but the implementation because of these conflicting pressures as to what to do. For example, it's all well and good to say "we're not going to issue any more visas to Iranians." That's what everybody wanted to do. But you can't do that if you're also worried about the Bahai's and the Jews and the Zoroastrians and the whomevers.

Q: *Or the Shah of Iran who was still alive?*

HARPER: Or the Shah of Iran, who I think was paroled in. But in any event, ummm... you know, you can't do those "absolutes". . So you have exceptions. Well, then the question is, who fits within the exceptions. And it wasn't just exclusively the minority groups, because there were other kinds of humanitarian considerations. What if, for example, somebody's mother is dying, or what if somebody himself is dying and cannot get the treatment he needs in wherever he is, and has to come here for some particular specialist, etc. One of the interesting things was that the President himself personally was making these decisions on what kinds of exceptions. I mean, usually in my experience when things are decided at the White House they are decided by senior staffers. In this case, the stuff we were getting back from the White House said such things as, "the President has decided to exercise option number two and has written a handwritten marginal note..."

Q: *With a J. C. at the bottom, of the things.*

HARPER: "Be sure, be sure to preclude abuse with regard to the exceptions.

Q: *He was a hands-on president.*

HARPER: In deed. We set up various criteria, we modified them, we did everything in the world to them at one time or another. In the early days I was spending more time in David Newsom's office than in my own. When we finally went into action, as it were, on April 7th or 8th or whatever that date was, in order to assure that exceptions not be abused, (laugh) because of the President's "don't let this be abused" comment, in order to insure that it not be abused, the Secretary of State was personally...

Q: *Had to personally...oh, I remember, I remember...*

HARPER: Personally approving these cases. Well, of course, I thought this was the most idiotic use of the Secretary's time that I'd ever heard, and ...

Q: *Made him more familiar with consular affairs...*

HARPER: And moreover, I'm sure the Secretary must have thought it was one of the most extraordinary uses of his time that he'd ever heard of either. It only lasted about three weeks and was then delegated back down to me. (Laugh)

Q: *You then were principal "non-abuser" of the State Department.*

HARPER: Ummm, but I still had to make reports up to the Secretary's office every week or two at first, then every month after a while, you know, as to how many of these people we were granting exceptions for and what categories and why and...

Q: *How long did that last in that rigid, detailed form, roughly? Through the 444-day captivity?*

HARPER: Roughly through the captivity, yup. You know, you had some really sad cases. A lot of kids...For instance, this started Easter weekend as I pointed out. You have no idea how many Iranian students who were attending school in Texas had gone down to Mexico for Easter weekend. And then they got back to the border on Easter Monday, the Monday morning following, and the immigration inspector is saying, "I'm sorry but your visa's been invalidated and you can't return." "Oh, but I have classes!" This seemed rather hard on the kids but, unless they fell into one of the exception categories, they were out of luck.

Q: *Mexicans weren't happy with this either!*

HARPER: And Mexicans weren't happy with it either.

Q: *Not to mention the Canadians, or the people in Paris where I was at the time. All of the business was Iranian business.*

HARPER: Oh, I know! Believe me, I do know! So, as I say the differing kinds of pressures are often not widely understood.

Q: You mentioned labor issues before as a vital consideration in our immigration policy. Now we have another example of the various forces at work that aren't always understood. What would you say are some of the other ones that you feel are principal in influencing our immigration policy.

HARPER: Well, ummm... certainly economics, ahhh...

Q: More than labor, more than jobs?

HARPER: Well, no...economics includes those. I mentioned a few minutes ago the squabble between organized labor and organized agriculture in the early 80s.

Q: 1980s. You've been throwing me centuries (laughs)...

HARPER: I know, 1980s. I'm sorry about that. (laughs) 1980s. American agriculture, agri-business and small farmers, relatively small farmers...

Q: California and Florida exclusively?

HARPER: Well no, no not only, not just California and Florida, but all the good old folk in between, had been bringing in agricultural workers as non-immigrants, as seasonal workers, since at least the second World War and probably earlier....

Q: And all legally. On need.

HARPER: Legally, quite legally.

Q: Cheap labor?

HARPER: Ummm, well no, not really cheap labor as far as the legal ones were concerned. Illegals were a different matter. The Labor Department had very stringent rules with regard to the amount of money the employer had to pay and the number of hours that the people could be made to work, and the housing that had to be provided, etc. etc.. When Congress was looking at the legislation that was finally enacted in 1986, that is, when they were looking at it earlier in the decade, organized labor people wanted to have all of those Labor Department regulations codified in the law to ummm...ensure that they would have some permanence. After all, regulations can be changed more readily than the law can be changed. Agriculture, of course, that is, the agricultural interests had fought those things being codified as they were, although they thought it was fine for the new law to include them if they were softened one way or another.

Q; To grant more flexibility?

HARPER: To grant more flexibility to the employer, of course. And everything just came to a stalemate. Because the agricultural argument was, "look, you will run us out of business or you will run the prices of American food so high that the American consumer can no longer afford to eat, let alone our exporting anything." And, meanwhile, labor unions are saying "for crying out loud you guys want to take these jobs at a minimum cost and we've got a lot of American citizen and resident alien field hands who are being displaced by these people." So you have those conflicting...

Q: This is a very good example, B. J.. We as people attuned to what was going on then, and you especially, what do you think the American people felt? After all, this was affecting the prices they'd pay for food and other real-life working people issues? What degree do you think the American people knew or cared about this?

HARPER: I don't know to what extent they cared, largely because I am confident they didn't know much about it. For example, sometimes I go visit an aunt in southwestern Missouri, a small town about 12,000, I think, and of course I see her friends. Since she's older than I am, for the most part those friends are the children or the grandchildren of her contemporaries because she's outlived most of them. And every time I get in a conversation about immigration, and I should note that although it's a small town, it's not unsophisticated, and these are well-educated, well-traveled people. Anyway, in these conversations, I hear two things, and I hear them both always. The first is that "we're letting too many people in."

Q: Does that suppose a sort of national chauvinism?

HARPER: "We're letting too many people in. It's perfectly obvious we're letting too many people in. Look at the number of unemployed we've got. They outnumber the number of people we're letting in." And the second thing they say is, "But you know, now, there are some young Salvadoran sisters who are here going to school, and they're not in status, and what can you do to regularize their status?"

Q: A pure intervention case. (laugh)

HARPER: You know, ahhh...or they don't know somebody who is already here, but they do know somebody who's abroad and has been unable to get a visa, and what can I do to get so-and-so...

Q: That being an example of the constituent interest as we call it, where there is a very explicit case at hand, versus a sweeping generalization of too many people.

HARPER: Exactly. Seemingly everybody in the country, at least everybody in the country that I've ever talked with, knows somebody that they want to come in, or stay in, although they think we're letting too many foreigners in.

Q; And now particularly for economic reasons?

HARPER: Usually, one hears about unemployment or other economic reasons. Ahhh...

Q: *What about the ethnic reasons, since we're on how the American people "feel". Do they feel that maybe there are just too many foreigners here now? They're all speaking Spanish, or...*

HARPER: They've always felt that there are too many foreigners here. And, as far as ethnic bias is concerned, ethnic bias I have traced back to 1728, (laughs) and I have...

Q: *1728? (Laughs) That's as far as you went back?*

HARPER: That's as far as I went back. Yeah. I think it was 1728, it could have been 1738, for that matter. It was in that general neighborhood and it was in one of the New England colonies, which got very upset about a sudden large influx of Scots. But, you know, we've had anti-Irish, we've had anti-German, we've had anti-ahhh...

Q; Anti-Catholic...

HARPER: We had that great sweeping "Know-Nothing" party that was just anti-everybody. But do you realize, Bill, that in the very first Washington administration there was a Congressman, I think from Pennsylvania, who introduced legislation to bar all further immigration to the United States on the fascinating, at least to me, ground that we had needed this steady influx of people while we were nation-building and growing, but now that we had the country built...we didn't need any more! This was in 1789 or 90, for heaven's sakes! And then in the middle of the 19th century we had the "Know-Nothing" party that wanted to bar immigration, so, you know, that idea comes and goes. There certainly has been actual racism from time to time in both the immigration laws and in the policies that have implemented the laws, but I think in general it was less racist in the ugly sense and certainly not necessarily associated with color as we now tend to think of racism. It was more ethno-centrism. You know, the country was founded by people from northern Europe or the British Isles, and so, "why don't we sort of stick to our own..."

Q: *Once our own get in...*

HARPER: Yeah, once our own get in. But why don't we sort of limit this to our own kind, so to speak.

Q; Well, the attitudes were certainly anti-Slavic at one point, and anti-Italian, anti-Mediterranean at another...

HARPER: It was anti-Mediterranean, no question about it starting around the turn of the 19th-20th century, and, of course, since the 1870s or 80s we had the Chinese Exclusion

Acts, and then later the Gentleman's Agreement With Japan to limit their immigration, and then in 1917, we inserted the Asiatic Barred Zone, so...

Q: So, to wrap up this particular issue, and it certainly is an important one, you might say there are two parts. One, personal, individual; the Salvadoran nuns who need intervention. It doesn't matter who they are or from where, Asia or wherever. As a constituent I'm going to bring as much pressure on my Congressman as need be. And the second part is the changing, evolving ethnic makeup of our country. From the near only Anglo days, pure British, on through European and now out into Asian. And in part because of the changing laws and social, political and economic realities, Latin American.

HARPER: Yeah, Latin America. By all, ahhh...

Q: Is that a big factor for you?

HARPER: Yes, see, I started telling you about ethnic organizations a while ago. Ethnic organizations are the ones who are largely responsible for the fact that the immigration law grants preferences not only to spouses and children of U. S. citizens and resident aliens, but to adult offspring of U. S. citizens...

Q: Reuniting families.

HARPER: And to siblings of U. S. citizens, all under the rubric of reuniting families, although adult members of U. S. families do not actually unite usually.

Q: There is many a story of how they hate each other.

HARPER: Well, they're both living within the borders of the United States, but one of them may be living in Seattle and the other one in Miami. But the posture of the ethnic organizations, and I think it's a legitimate posture as far as that's concerned, is that up until such time as immigration sort of got beyond control in the early 1900s, immigration had largely derived from families. I mean, obviously, some people came just independently. Lots of people came independently. But there was also a tradition of some member of a family coming here and then, as soon as he had enough money saved up, sending for other members of the family and so on. Sometimes siblings, sometimes...

Q: Very American tradition.

HARPER: Very American tradition. The ethnic groups want to protect this. Moreover, the countries that did not benefit through such provisions, while we had national quotas, and the maximum quota they had was a hundred a year.

Q: And that was ethnic based. Clearly.

HARPER: Clearly, to those in the know, but not obviously--I mean to the general public. It looked straight-forward unless one followed the shenanigans for determining the quotas. In the 1921 Act (the first quantitative-limitation legislation), the national quotas were set at, I think it was 2%, 2% of the number of foreign-born in the U.S. according to the 1890 census. Think about that 30-year-old census. That was chosen, of course, because it was before the big influx from southern Europe in the early 1900s; a deliberate slant toward the earlier settlers. In the 1924 Act, they essentially retained that arrangement to 1929, when a new formula was to be put in place. It would have been pretty flagrant to continue using a census from the previous century, so the 1929 provision set quotas based on a complicated ratio--it defies explanation, at least by me--between total population and the number of people attributed to each national origin in the U.S. in the 1920 census. That's why they are called "national origins quotas". By shifting the basis from "foreign-born" to "national origin" you would continue to give the edge to the earliest settlers, not the newer-comers. From the standpoint of public understanding, however, the fact is, if something is described as a result of some mathematical calculation, it sounds legitimate--sort of an Act of God that Great Britain wound up with 65,000 and Italy with 5,500--but in fact the choice of what would go into the calculation was based on arriving at disparities like that. Of course, the public, in those days, would probably have approved of what result if they did understand it.

Q: But we evened that out in 1965....

HARPER: Yes, and when we changed the law so that any country could use up to 20,000 visa numbers if they had that much demand, obviously those low-quota countries didn't want the rules changed with regard to family migration just as they were about to be able to benefit from them. So we had...that's another place foreign policy came into play.

Q: We were pressured by other countries?

HARPER: We were pressured by other countries.

Q: Brain drain?

HARPER: Well, we've had complaints about brain drain from time to time. But in this context--and some others--most of all what they wanted was for us to not stop their people from coming. Governments interceding to be sure that we didn't do anything to interrupt the flow of their people to the United States. You know, there are members of Congress (and other people, I'm sure) who believe that once children grow up and leave the family home, the family ties are loosened--that "family" really means (or should mean, in the immigration context) just mama, papa and minor children. As an only child, I can't attest one way or the other on this, although I have many, many friends past middle age who are as close to their siblings, and their parents, if alive, as they were when they were young, so the so-called "nuclear family" doesn't apply to everyone. In connection with foreign government intercessions, it must be remembered that many of our people come from countries in which extended families are very close, emotionally even if not in

distance, just like the friends I mentioned. I mentioned awhile ago that frequently adult members of immigrant families do not settle where the petitioning relative lives (although many others do), but being in the same country is very important to these people. And to their governments.

Q: Third world particularly? Or was it all over, were French complaining?

HARPER: Well, the Irish complained. (Laugh)

Q: Because their demand for departure was...

HARPER: To answer your first question, no, the French didn't complain. They couldn't have cared less. You know, they don't come here in droves anyway. And neither do the people from Liberia for the most part. But, as a for instance, when the '65 act was under consideration, and most particularly when it was under consideration to ummm...impose a numerical ceiling on the Western Hemisphere contrary to all of past history, the Canadians came down and said, "Hey, wait a minute folks, this will cause grave damage to the way we conduct our business across the borders, our traditionally open border. It will interfere with traditional movements for international groups such as international labor organizations, international firms, etc." And at the time we didn't pay much attention to it because in the '65 act the imposition of a ceiling on Western Hemisphere countries was deferred for three years while a Select Commission on Western Hemisphere Immigration studied the question of whether or not we should have such a limit. And...

Q: Up 'til that only a labor certification was necessary.

HARPER: Up to that point the only thing that would impede such immigration was the labor certification. So, then the Commission did finally decide that, well, the '65 Act essentially was designed to eliminate bias. To eliminate prejudice, to eliminate favoritism and non-favoritism, and we were going...

Q: But then we were not yet involved in the Helsinki Accords, of course...

HARPER: No. No, we could operate however we wanted, but their position was, "the purpose of the '65 Act is to provide a level playing field. And...it won't be a level playing field if a whole hemisphere is exempt from the rules for the rest of the world." I mean, you know, we're evening-out what we used to do with regard to Europe, and Asia, and Africa; if we leave the Western Hemisphere alone it just stands out like a sore thumb.

Q: Did this relate in part to the Kennedy's ...?

HARPER: Discrimination for is as bad as discrimination against. So it was decided that there would be a limit. Yes, this was the Kennedy bill

Q: Abba Schwartz was leading this within the State Department, and was active, was a real leader.

HARPER: Except, of course, that the Kennedy proposal got significantly modified by the Congress.

Q: I'm thinking in terms of what forces behind are often responsible or not for things happening to our immigration policy. The Kennedy administration historically had this tradition of wanting to make a little more level playing field; or not?

HARPER: They wanted to get rid of discrimination.

Q: And, of course, one of the principal players was the President's brother. So that helped in terms of...

HARPER: That's right. When the Commission decided that well, they would let the limit...I should note it wasn't a matter of affirmative legislation being required; they didn't have to enact anything in order for the limitation to go in on the Western Hemisphere. A limit of 120,000 per annum, effective July 1, 1968, was established by the '65 Act, "unless legislation to the contrary is enacted before that date." All the Congress had to do was fail to act to avoid it. And they deliberately failed to act. They came to the conclusion that discrimination for was as bad as discrimination against. After we had had about a year of this limitation, say 1969, the Canadians were back and they said, "You remember we were down here a couple of years ago telling you that all sorts of dire things would happen? Well, all sorts of dire things are happening." Prior to this, when Canadians didn't need any visa numbers in order to come here, if a firm or organization wanted to transfer somebody to a U. S. office, all the employee did was get an immigrant visa even though the person might be expected to stay here only a year or two. There was no appropriate non-immigrant classification but an immigrant visa was no problem. If an International union wanted to transfer somebody from the union headquarters in Montreal to the union headquarters in Detroit or vice versa, The person just got an immigrant visa and went across and that was that. Once you had a numerical limitation, and the numbers were not available, you couldn't do that. So what they wanted was a provision that would enable the same kind of free transfer to go on that had gone on in the past.

Q: Traditional U. S.-Canadian special relationships.

HARPER: Exactly. As a result of uncountable meetings between the Canadians and my boss, George Owen, who at that time was Director of the Visa Office...

Q: You were in Field Operations at this time?

HARPER: I may have been but I think at this point I was Deputy Director of VO. Ummm...I had left Field Op's. Anyway, I didn't participate directly in any of the negotiations, but, as a result of them, we developed what became known as the intra-

company transferee non-immigrant provision. Well, I was very pleased to see the development of non-immigrant legislation in the Department, because I had had a pet peeve for a number of years that could maybe taken care of. When I was serving in Japan, and most particularly when I was serving in Okinawa, I was very distressed by the marriage cases that we had. Lots of young soldiers, sailors, whatever, in many instances trying to marry women who were much older and more experienced than they. And there were two problems; actually one of the two problems solved the other problem. The first was that I was personally disturbed by the thought that many of these marriages would not be lasting marriages, and that there would be a great deal of heartache and agony once these women went to the United States as the spouse of these kids. And they were kids. The other problem, however, was that a great many of their military commanders were refusing them permission to marry, usually on the grounds that, if they granted permission, I would deny a visa. That was an argument that I wasn't real thrilled with. The kids would come in and say, "My Commanding Officer tells me that you wouldn't issue my wife a visa if he gave me permission to marry." I wasn't happy with that either. I thought it was unfair, and I felt very strongly that what we needed was a non-immigrant provision to allow fiances of American citizens to come to the United States, let them see mama, let them get acquainted with mama, let the kids compare them with the girls back home, before marriage.

Q: Just get married within a certain, specific time.

HARPER: I had the feeling that many wouldn't end up in marriage, but if it worked out, just get married within a specified time...

Q: What was it six months, or?

HARPER: Ahhh, 90 days. 90 days. I didn't go up and lobby the Congress, of course, but I did lobby my own boss enough to get that provision into the same legislation. And, sure enough, the Act of April 7, 1980, includes that provision.

Q: And it's still valid today...

HARPER: I meant 1970, excuse me. Yes, and that's still in legislation and I still think-- even though it has been abused, anything will be abused; I don't care what provision of law it is, any provision of law is going to be abused by some people. But even though this has led to a certain amount of fraud, and abuse, I still think that it is a healthy kind of a provision of law. So, the kinds of pressures that influence legislation can be...

Q: They're human. You have as a human watched young soldiers, in this case, become frustrated. And knew the law might eventually be misused, but, in any event, you thought that the immigration law ought to take cognizance of realities. That's probably what most aspects of our immigration law try to do--take cognizance of need.

HARPER: Exactly. Exactly.

Q: Taking part in the sending of people from a foreign country to the United States.

HARPER: Exactly. Those are the kinds of things that influence.

Q: How about some others. That was a very human one.

HARPER: Yes. Going back a minute, just to pickup on something you said a little while ago on the lead actors in the '65 Act, one being as the brother of the President, you probably meant the Senator. I found myself working indirectly for the other brother of the President, the A.G. [Attorney General], in '62. You may recall that in 1962 there was this huge rush of around 150,000 or 250,000 or whatever it was, a half million Chinese had crossed the border into Hong Kong. Bobby Kennedy decided to have a refugee program to help out our friends the British, who really had their problems. Another foreign relations factor. But I disagree. The Brits really had their hands full, because Hong Kong had gone from a few hundred thousand to over 2 million in about 15 years. And, obviously, you don't have the infrastructure, you don't have the space, you don't have the anything for that kind of growth. There were three of us detailed from three posts in Asia...

Q: You were in Tokyo at the time?

HARPER: I was in Kobe. There were three of us detailed to Hong Kong to do the refugee program. I was the only one that ever saw an applicant, however, because the other two, (and this is significant in it's own little way as reflective of what happens in the immigration field), the other two did nothing but answer congressional inquiries. We were getting between 80 and a hundred a day. It was just fantastic.

Q: You were going there to adjudicate refugees, as an immigration officer adjudicates refugees today?

HARPER: Well, immigration officers still adjudicate refugee status, and they did then. But what we did was determine eligibility for a visa. The immigration officer then decided whether or not the individual was a refugee.

Q: So you didn't have to determine whether that person was...

HARPER: I wasn't determining refugee bona fides, I was determining admissibility to the United States. And it was at a time of enormous immigration fraud. We've always had this enormous immigration fraud from China, so the questions of ummm...whether or not somebody was really entitled to a visa was a very serious question.

Q: Health questions, also, another large element, I suppose. Tuberculosis...

HARPER: I didn't have too many health refusals, really. The chief problem was attempted fraud. As you know, there are always more refugees than the U.S. can take care

of, so we have to select among them, and that was true then. We were taking as refugees only persons who had family ties in the United States and the principal fraud was in the area of relationships. Many of them were already the beneficiaries of relative preference petitions, but with the quota for Chinese persons being 105 a year, it was very difficult for anyone to get an immigrant visa. So the refugee program was a God-send to relatives and alleged relatives. There was a lot of attempted fraud with regard to claimed relationships, some of which came from the fact that the relative in the U.S. was here in phony identity or status. There was a marvelous fraud report that Hong Kong had done a few years earlier in which the second paragraph (if memory serves) began along these lines: "If all the Chinese who claimed to have been born in San Francisco before the 1906 fire destroyed all records had actually been born in San Francisco, every Chinese woman in the U.S. would have had to have been in San Francisco and to have had 613 children" or some such figure. Anyway, the original commitment, which I think was for 5 or 10 thousand, was increased and our 90-day assignments became six months.

Q: In any event, Hong Kong is usually not avoided as an assignment.

HARPER: Yes, nobody minds being detailed to Hong Kong, however, at least I didn't. it was a fascinating experience.

Q: Are there any other relatively major factors that go into immigration policy determination? We've touched economic, human, complex and even contradictory ones...

HARPER: The conflicting ones.

Q: The conflicting ones?

HARPER: You know, where one economic interest vies with another economic interest...

Q: Exactly.

HARPER: Another economic interest. Or...

Q: You could compare them to contemporary Haitian problems, but we won't.

HARPER: Well, also as I indicated with regard to the Iranians. We had both conflicting political imperatives, and humanitarian concerns.

Q: You've mentioned a couple of leaders. It sounds like the principal role-players outside of Congress tended to be in the State Department. Although you mentioned Newsom and the Secretary, they appear to be at your level when you were Deputy Assistant Secretary, or above you at the assistant secretary for consular affairs level.

HARPER: It seems to me the principal player, or two principal players, depends in very large part on who's at the top of INS. Because, we have had varying degrees of leadership out of the Immigration Service, as well as here at State.

Q: We remind the reader that the Attorney General isn't just a casual player. He is a primary player under the law.

HARPER: He and the Secretary are primary players under the law. But, insofar as day in day out, how is the law implemented, how does the law work and so on, you were right. It's at the assistant secretary, my boss's, not mine particularly, assistant secretary's level and the commissioner of the Immigration Service and we have had varying levels of leadership in each of those positions at one time or another. Therefore, sometimes we were one of two, sometimes we were one of one, and sometimes we were secondary, depending on who's there. Barbara Watson became Administrator, following Abba. Oh, I think there was an interregnum of somebody else who was in there for maybe a year, year and a half, but who's name...

Q: Dick Scully talks about the person. It's a short period...

HARPER: It was a short period. Obviously made a huge impression on me because I can't remember. (Laughs)

Q: He wasn't there long enough to impress.

HARPER: There was some gentleman there for a relatively brief period. Barbara came along, and Barbara was a very unique woman. I loved her dearly.

Q: Put a date on this, when she first arrived.

HARPER: I would say Barbara came in probably late 1966, or early '67, as a deputy to this other individual, and then took over from him in late '67.

Q: This was clearly a democratic Kennedy appointee.

HARPER: Oh, she was a Johnson appointee.

Q: Johnson appointee. Yeah.

HARPER: Johnson appointee. Ummm...and yes, very well plugged into the Democratic party.

Q: In New York.

HARPER: In New York primarily, but not exclusively. Barbara, like all of the political appointees who held the position, was an attorney. Unlike any other Administrator, or who's title has now changed to Assistant Secretary, unlike any other I have known, she is the only one who went over the Foreign Service Institute, took the consular course, and insisted on taking the examinations and having them graded.

Q: *And made public?*

HARPER: I assume so, 'tho I never saw them. I know of no other administrator or assistant secretary who's done that. So she really knew what we were talking about when we were talking technicalities, and nobody could touch Barbara when it came to the political factors at play.

Q: *And she was well plugged in.*

HARPER: She was well plugged in and had been plugged in all of her life to politics. She was wonderful. I remember one time...I don't know why, but for some reason Barbara decided that I was an efficiency expert or some such thing, because she kept sending me all over the world to look at posts, primarily those that were coming in with pleas for more personnel, to see whether they really needed more personnel or whether they just needed to use the ones they had more efficiently. And effectively.

Q: *You were in VO?*

HARPER: I was in VO. And I was, at that time, chief of the Field Operations.

Q: *Which is quite a responsibility.*

HARPER: Yes, but usually try to solve posts' problems from long distance. We don't go traveling off to Timbuckthree (sic) to find out!

Q: *Barbara was a hands-on person.*

HARPER: Indeed, Barbara was a hands-on person. But, you know, but we found out how posts were doing through these consular conferences such as the one that I mentioned I had seen Abba at, several years earlier. We didn't actually send people out to sort of inspect, outside the Inspection Corps.

Q: *Assist. (laughs)*

HARPER: Anyway, I went on all of these sort of field management trips, and on one occasion--it was at the time that Lyndon Johnson started to worry about our balance of payments, and had that program called BALPA, which stood for the balance of payments problem. He sent out instructions that large posts abroad were going to suffer a 25 percent cut, and small posts were going to take a 10 percent cut in personnel. I got this wonderful news as I was on route to Manila for an around the world, eight-post seven-week trip. Naturally, instead of spending my time in consular sections, trying to find out how people were doing things and whether or not there was a better way to do it, I was spending my time with ambassadors telling them that they really couldn't cut the consular section by 25 percent or 10 percent or whatever percent--(laugh) a message that never thrilled any of them.

Q: And an issue that goes on to this day.

HARPER: And an issue that goes on to this day. Well, anyhow, I got as far as Madrid, which was my next to the last stop. It was late on a Friday afternoon, and so, of course, I didn't see the ambassador that day. I spent a very pleasant weekend in Spain; as I'd never been in Spain before, after Saturday at the Prado, I ran down to Toledo on Sunday, looking forward to working with the consular section two or three days of the following week and then going on up to Lisbon, or over to Lisbon--whatever direction it is. Geography is not my long suit. As I walked into the embassy bright and early Monday, a young man, apparently in our communications section, stopped me in the corridor, and said, "Excuse me, but are you Ms. Harper?" and when I said, yes, he said, "I have a cable for you." So I thanked him, took my cable, pushed the elevator button for the ambassador's office floor to pay a courtesy call, and read the cable en route. I couldn't believe my eyes. What it said was, "your services urgently needed in Department. Curtail itinerary and return ASAP". So I was in this total bewilderment walking into the ambassador's room when the secretary announced my arrival and he came out...it was Angier Biddle Duke...this great tall man came striding out of his office and said, "What do you do in the Department that's so important?" (laughs)

Q: More important than I am, apparently! (laughs)

HARPER: I said, "Mr. Ambassador, I swear I have no idea!" He said, "Well, I don't want you to leave, I mean we've got problems down in the consular section, and I really don't want you to leave early."

Q: I won't let you out of the country! (laugh)

HARPER: Well, since I didn't want to leave early, I said, "If you don't mind my using your phone, I'll try to find out." So I called George Owen, the director of the Visa Office and my immediate boss, and said, "George, what is this?" He replied, "B. J., I didn't know anything about that cable until I saw a comeback copy. Barbara sent it." "But why did Barbara send it? I mean okay, she should have cleared it with you, but what's the problem?" "The problem is she has to go up and testify in three weeks and she wants you back here to write her testimony and to go with her to testify." So, yes, Barbara was hands on.

Q: What was the subject of...

HARPER: Who knows! It was an oversight...

Q: Because usually she could handle such items; and there were others around--not to take away from your importance--but she knew how to use the Dick Scullys and the George Owens...

HARPER: But, this would have been '68. Dick was fairly new at that point. Dick didn't come into VO until late '67, as I recall; and although obviously he was a real comer, I'd been around for a while. She was used to me.

Q; You know that now more in retrospect than perhaps at the time. But you were needed. It also emphasizes...

HARPER: The one thing, I told the ambassador, "there's one thing for sure. I don't know what this cable means and I don't know why it was sent, but I do know that I am going to insist it go in my personnel file for the benefit of the promotion boards". (laughs)

Q: *To compensate for what you're going to write on me for fleeing the post! But I think also, that it reflects Barbara's sense of priorities. She knew what was coming up on the Hill. The Hill is very, very important, and she knew it. Not just because they're congressmen, but because they are the leading players in immigration matters. The Constitution suggests that. And that she wanted to make sure she was fully prepared, so you were ordered back.*

HARPER: Well, it was an oversight hearing. And they tend to ask a lot of picky type questions. You know, exactly how are you doing, X, Y or Z? And she really needed a backup at her elbow.

Q: *Without getting too ad hominem in our discussion, certainly Barbara, by all, has always been singled out as a real leader. Speaking in general terms, what do you think is a weak leader; what are the qualities missing in some of our other leaders?*

HARPER: Well, ummm...there have been those, as I suggested a few minutes ago, some of our leaders have simply not known enough technically to feel comfortable or to see the implications, and even though they can be led to an understanding of the implications, they're not comfortable going up and defending or making an issue of certain things, or whatever.

Q: *They can't always pass on a question that comes in on the phone; some they have to answer themselves, on the spot. And if they make a mistake...*

HARPER: Exactly. So that's one kind of a problem, that sometimes there is a shortage, shall we say, of adequate technical skill. The opposite kind of a problem has also been known to arise, where a person just simply doesn't like, doesn't cotton to, isn't comfortable with, politics. The give-and-take of politics.

Q; The reality of human inter-relationships.

HARPER: The reality. yeah. (laughs)

Q: *We use a euphemistic phrase for Congress and politics.*

HARPER: Yes, exactly, and therefore, we don't carry the weight we should, because we're not up there fighting for what we ought to be up there fighting for, or against, as the case may be.

Q: *Our voice is not heard!*

HARPER: Our voice is, is...

Q: *Our leader doesn't have the strength or knowledge...*

HARPER: We may be talking, but we're whispering.

Q: *Maybe some of us are afraid. Some say it's better not to have a career person in such a position. Not that we aren't political animals, but that we don't have that super strength that is needed. What about leadership with the field? The junior officers, for example, that vast number of people on the visa lines, suffering under pressures, and maybe bad local leadership. How do you look at the relationship with the field? For example, from your position as director of Field Operations?*

Ms. Harper; Well, I was division chief of Field Operations, what, 30 something years ago.

Q: *Same "field" was out there!*

HARPER: Same field. A much larger field, as a matter of fact. You said "local" but then referred to my being in Field Ops. I'm not sure whether you really meant leadership in the field as I saw it from Field Ops and other departmental assignments, or between the field and Washington.

Q: *Both, or either. Whatever suits you...*

HARPER: Actually, they're intertwined, at least to the extent that it's a lot easier to be a good leader in the field if you're getting support from Headquarters. I'd say generally that both are pretty good. In fact, most of the senior consular officers abroad, visa officers, are a lot better than pretty good, both managerially and technically, and some are outstanding. Moreover, I think VO does a better than pretty good job of backstopping them. On the other hand, I have occasionally seen examples of some--I don't know how to describe it really--sometimes it seems to me the folks in the field are not using their common sense. I'm as great stickler for following the law as anyone, but sometimes, particularly with regard to subjective judgments, a certain element of balance, of common sense is necessary.

Q: *At the expense of the law"?*

HARPER: No, not really. It's pretty hard to establish that there's only one right decision on matters about which two different officers could come to different conclusions, and

that's what the subjective decisions amount to, sort of by definition. I'm sure you've had the experience, as a reviewing officer, of coming to a different judgement from that of the interviewing officer and I assume you handled it as I did. You explained to the officer why you had come to your conclusion and if the officer wasn't persuaded, you issued the visa yourself. No one should, actually no one legally can, order an officer to issue (or for that matter, deny) a visa. But we can and should try to educate and we can and should take over a case, if it seems necessary. Fortunately, most of the grounds of ineligibility are objective--someone does or does not have a criminal record, or a disqualifying illness, or a labor certification, or whatever. But the questions such as whether or not someone is a *bona fide* non-immigrant, or a returning resident, or likely to become a public charge are all subjective. And circumstances may suggest a little flexibility. My memory goes back further than yours I think, in the sense of being in the Service first, and I well remember Congressman Rooney regularly fulminating about "little Caesar", meaning consular officers. I think we shouldn't do things that give rise to that charge.

Q: Of course not, but what kinds of things...examples?

HARPER: Well...maybe one of each. I mean, one when a senior officer interceded properly in my judgment and one of the opposite. You remember the "Use your heads" airgram I mentioned--the one urging that they postpone scheduling of people who would not be directly affected by the new labor certification after the '65 Act went into effect?

Q: Sure; it caused problems...

HARPER: mostly because it was not understood, but regrettably, in one case, because it was. At a post I won't name, they understood the message perfectly and canceled, or rescheduled, an appointment that had already been made for early November with a couple who were special immigrant returning residents. Just what the airgram meant. However, when the couple came in for the rescheduled appointment, about the 5th of December, the consular officer decided they were not entitled to returning resident status. Now, if the original appointment had been kept, that decision wouldn't have mattered. Whatever status they had, since they were British, a non-preference visa would have been available, the labor certification requirement was not yet in effect, and they would still have been eligible for and been issued visas. Coming to that conclusion under the circumstances, however, was really very unfortunate, because they were no longer eligible to apply for non-preference visas. In that instance, I called and discussed it with the chief of the consular section who re-interviewed them on appeal and decided they were indeed entitled to returning resident status.

Q: You cite that as an example of a leader doing the right thing. Do you think they really were returning residents?

HARPER: Absolutely, it's an example of what I think is the necessary use of common sense. I didn't interview those people and don't really know whether or not they were or weren't...but I'm convinced that it was in our best interest that those visas be issued under

those circumstances. After all, they'd have had their visas and been in the U.S. by December if the embassy hadn't changed their appointment.

Q: And a contrary example?

HARPER: Well, on the other hand, there have been cases that may have been technically correct under the law that I think were decided in an overly-rigid manner--for example, an infant in a life-threatening situation, needing an immediate evacuation to a hospital that had agreed to provide emergency care, and a consular officer who refused a visa to one of the parents for fear that if both went they wouldn't return. Even in response to a Departmental phone call to the chief of section, that decision was not reversed the last I heard. That's the type of thing I meant. The courts have held that laws cannot be deemed to me meaningless, they have to make sense, and surely we ought to apply the law as if we were thinking about its purpose. I understand concern about *bona fides*--I refused lots of visas on that basis. But clearly those people did not have a critically ill child just in order to sneak into the United States. That's the kind of handling of a case Congressman Rooney used to rant about, and the kind of case that prompts calls from a Board of Review of visa refusals in the U.S., which is a terrible idea.

Q: Good point. And getting back to leadership, or relationship between the field and Washington?

HARPER: As I said, I think generally speaking, relationships are fairly good in the sense that we do provide the kind of help that the posts usually need. On the other hand, the Foreign Affairs Manual, that is, our part of it, Volume 9, is not kept up to date as quickly as it should be, in large part because of mechanics. It used to be amended faster than it is now, because it used to be that in the regulations and legislation division of the Visa Office, we simply made the necessary changes, sent her over to people who photocopied and ran it off, and out it went. Now it has to go from us to a different organization in the Department where they edit it, where they format it, where they try to make our part look like the rest of the Manual, and then they have it printed. And so it is slower. That's one problem. I think another problem is that what this leads to is not necessarily a delay in the people getting the information they need. Let me stress that. What happens, and what has happened as a result, is that everything is going out by telegram, saying the Manual pages will come along sooner or later.

Q: But this is not new. This is as old as I can remember.

HARPER: Well, we've always sent urgent materials by cable, that's true, but there's more of it now, more routine stuff. There's lots more of it than there used to be.

Q: Are laws changing more quickly?

HARPER: They're changing the laws more often so that there's more and more and more of it, so to speak, and the statutory changes require procedural changes. I have recently

been trying to update some material, and frequently between the time I start and when I go home at 6:00 at night, what I'm writing about has changed. It's not always necessarily the law but the procedures.

Q: But in these days of such modern devices--computers and everything-- you mean we're going backwards, can't get revisions out to the field faster?

HARPER: Well, as I said, we're getting cables out. We're getting it out as fast as we ever did. But that's a ridiculous expense in both money and time--and we have a shortage of each of those. But the real paper, we're not getting out as fast.

Q: We can't go through a computer and you read it up on your screen?

HARPER: Yes, as a matter of fact that is under development, except that it is, ahhh...I don't know. The software appears not to have taken into account all of the needful elements, shall we say. So what was coming up on our screens, for the trial run, was gibberish from time to time. Absolute gibberish, I kid you not! There are bugs in it. Let's put it that way.

Q: We can debug it; there's got to be a way of getting information. This is the basic document, isn't it?

HARPER: Sure. And so theoretically it's being debugged, and let us fervently hope that it really is being debugged, but, so far, none of us has seen a corrected ahhh...useful...

Q: This is an example, I think, of that feeling in the field, characterized as: "they don't understand what we're going through out here. They don't know what it's like to be on the line." Or, to make it even worse, "those civil servants who send us sarcastic telegrams. They just don't understand." What is your reaction?

HARPER: Well, I have been one of those who wondered whether or not the people in Washington understand, so I can sympathize with that. However, I've never known an assistant secretary who didn't come back from the consular conferences very impressed with the people in the field and insisting that we "do something" about the issues they've raised. Sometimes that's not possible. A lot of the gripes stem from the fact that some consular officer (or officers) don't like some particular provision of law, think it's unwise, or they want more resources...people, equipment, space or whatever. Well, we don't write the law, at least not usually, and we can't testify that some congressman's idea is crummy just because some consular officer doesn't like it. As for resources, anyone who's read the paper in the last few years knows that all agencies are hurting for money. It's been a matter of doing more with less for quite a few years now. But, as I said, we do do what we can. As for the other part of your question, I don't really feel that distinction, at least not in the Visa Office, I don't, between the Foreign Service personnel and the Civil Service personnel. Maybe that's because so many of the people in VO are Foreign Service officers and they have had field experience, and the Civil Service old-timers are real pros.

Q: It used to be 50/50.

HARPER: I'd say it's probably even more [Foreign Service] today. I haven't counted it, but that would be my guess right off hand.

Q: Of course, if the leader of the Visa Office makes certain that the staff is not to be bureaucrats fighting colleagues out in the field...

HARPER: yeah, but ...I don't think any of us, Foreign Service or Civil Service, really wants to fight with our colleagues in the field. Ahhh...although I remember years ago from the Passport Office, some really classic...

Q: We finally got rid of her!

HARPER: Classic cables. Francis Knight had a favorite opening phrase when she got angry about somebody's stupidity somewhere. And you could see and hear the underscoring and the italicizing even in a cable, literally as you read it, because the opening sentence would begin, "The Department fails to understand how the consular officer could possibly have...(done whatever)..."

Q: The reader may go to other interviews for further discussion on Francis Knight's role.

HARPER: But, anyway, I don't think they do that in VO. Basically we try to be nice and we try to be helpful. And, thank heaven for things like fax's, speaking of modern technology, and telephones, and things of that nature. An awful lot is done by phone, although that's not convenient if you are in Washington and somebody is in Beijing ahhh... or Tokyo. Or somewhere where the clock is a twelve to fourteen hour difference...

Q: Twelve hour's difference!

HARPER: Yeah, exactly, twelve hour's difference. My recollection is that that is the spread between D.C. and Tokyo. No hour is convenient at both ends. I think one problem that we face, however, is that not enough of our troops do have an assignment in VO, and I think it would be useful if every consular officer had to have at least one assignment in VO, preferably after at least one field experience.

Q: I would add also one assignment in personnel to understand how the system works. (laugh)

HARPER: Yes, I think it would be helpful for everybody to know how the system works. But most of all I think that we need to do something about our training. We spend an awful lot of time teaching people, "what"? Obviously they do have to know the law.

Q: This is done largely at ConGen Rosslyn, the first basic consular course. What is it five weeks give or take?

HARPER: However long it is. I haven't taken that course. I've e taught at it from time to time, but I've never taken it. So we teach them "what". And we also, to some extent, teach them "how". It's always seemed to me, however, from the time that I went through the basic A-100 course, you know, umpteen years back, that they do not teach enough "whys". And I am convinced that people do remember how to do things or at least remember where to look to find out how to do things better, if they know why.

Q: The underpinning for the law and...

HARPER: The underlying reasons that we have legislation, such as the labor certification, or the interpretation of various and sundry provisions. Not just this is the interpretation, but this is why we interpreted it this way.

Q: I used to call them the Blue Pages which explained some of this but not ...

HARPER: The interpretive notes, yes, and I tried very hard to make those notes more complete with whys, and unmistakably clear. I don't know if you know I redid the whole Manual, I mean Volume 9, in 1985-86. I got through just in time for the '86 Act to be enacted, and I had to redo it after it was in page proofs.

Q: Is this like writing the book that you did on the '65 Act?

HARPER: It was like writing the book, yes, exactly.

Q: The reader should know that B.J. is the author of the textbook on the 1965 Act that was changed the day the publishers decided to publish it, or give or take a few days.

HARPER: I think the publisher would find that an exaggeration. Anyway, I tried very hard to ensure that the interpretive notes actually interpreted and explained a lot of "we think this because", or "the Department and the Service agreed to-such-and-such because", and so I...

Q: Did you get any feedback that they were really better understood?

HARPER: Well, I hope so. I mean I hope they were understood. I also tried to make the notes themselves less interpretable, because it used to be, and you know this from your own experience, Bill, if you opened the book to any given page, and ummm...asked five different consular officers to read note 7.3 and tell you what it meant, you'd get five different answers, if not six. We weren't always careful enough in drafting and I've tried to do something about that. But I think that these are shortcomings that really need to be addressed constantly. All it takes, as you know, is a couple of months of negligence in how you explain things, and you've immediately got 250 or 750 confused consular officers.

Q; That's right. But unfortunately, the principal people that really know the "why's" for so many of these questions sit in Dick Scully's office in Reg's and Leg's, and are few in number. What, five or six officers? And are under constant pressure because of the changing laws, procedures and interpretations.

HARPER: I know, I'm still working there. (laughs)

Q: *Oh, you're still working there? (laugh) I knew you were doing something in VO.*

HARPER: I'm thoroughly familiar with the kinds of pressures around, and ...

Q: *But they're the only ones that know this. Aren't they?*

HARPER: Yes, and they, that is, the more junior ones, don't even always know why. They know what, but they don't always know why. They should. But there isn't as much, there isn't time enough for as much communication, even in-house, as there should be. Now, there are staff meetings every week, you know...

Q: *But I remember the staff meetings. As hard as you tried, you still couldn't get into the necessary details. It took too much time! The phone was ringing. Everybody had their own thing they had to get to. They're all busy people, and not necessarily doubling the staff helps it, because so much of this is just basic knowledge that the field needs to know but just can't get, at least on a timely basis.*

HARPER: Yes, exactly, and there is also the fact that, for the most part, the way the regulations and legislation staff was set up, the senior members of the staff actually made decisions, coordinated with INS, etc., and made decisions as to what we would put in our regulations, how would we interpret jointly this term or that term or the other term, but the rest of the staff essentially simply put into the proper format whatever they were given, either by those superiors, or when it came to procedural notes, that they were given by the people in Field Operations that were developing the procedures. And their's not to reason why.

Q: *Well, they are, but they don't.*

HARPER: The question was, do you understand, the question was, can you put it in procedural notes, you know, here it is. And this led to gaps in knowledge. Now, the people we have there today are more knowledgeable, and are better at this. And they do have sense enough to ask questions, which is the important thing. I mean they've got a good deal of sense, and they are very able people. I don't want to suggest that anybody we've got there right this minute is not.

Q: *We have had a history of some negatives.*

HARPER: Well, we've had over the years, a few people who believed that their sole responsibility was to take what they were given, and plug it in at the right place.

Q: *And speak in an incomprehensible language.*

HARPER: And write it in bureaucratese. Yes.

Q: *...Which didn't apply to the case in front of me. I have this piano player who does the following, and I can't find anything in there that talks about this kind of piano player. And then I get an answer back and it starts out with a reprimand. Not as bad as Francis Knight's, but it was ahhh...."you should have known that sort of thing. And then that builds up an antagonism.*

HARPER: Oh, you bet!

Q: *But this is much better now, you tell me. I think it's better. But of course, I'm not sitting out in the field! (laughs) You know we really should sneak back to where you were. You left us, I think, in 1965, give or take, which at least gets you chronologically back in order.*

HARPER: I could get back to '65, for a different reason, if I may.

Q: *Fine, Fine!*

HARPER: I'll get back to '65 and move me along if you

Q: *You go any place you want. We just want to make sure the reader tastes of this vast experience you have had.*

HARPER: But....well, I don't know how vast, but in any event, going back to '65 and the legislation. I commented that we only had from October 3rd to December 1st to get the wheels moving. It is amazing to me, as I look back on it, that when December 1, rolled around, the State Department, meaning the Visa Office, and I believe the Immigration Service, all had regulations that had been duly published according to the precepts of law, in place, in time for the effective date of the legislation. This is because in those day we didn't do things as we do now, like going through OMB; we didn't have all the inter-Agency friction.

Q: *Or the Vice President's Council on something or other?*

HARPER: No, with, you know, every other agency in the city wanting to look at some particular piece of this thing. It was just by and large the State Department Visa Office and the Immigration Service, the Justice Department's Immigration service...

Q: *Maybe Labor?*

HARPER: And, yes, and certainly Labor in '65, because of the labor certification provision. We would simply pick up the phone and say, "we're proposing to do 'X'. Do you have any problem with that?" "No, and as a matter of fact, we're planning to do 'Y'", the person you were talking to would answer! And so, we all went ahead and blithely published our regulations. There were no crashing conflicts between us or among us, and, therefore, everything was handy-dandy. Now, the 1990 legislation, on the other hand, was enacted in November, 1990, effective October 1, 1991...

Q: A year should be enough to...

HARPER: The Visa Office had its regulations out by October 1, for October 1, 1991, except for two that we had been unable to get through OMB. INS had not yet published its regulations on these subjects, and it had the primary responsibility for those provisions, and, therefore, OMB wouldn't let us publish our regulations first. The Service was still putting out interim regulations.

Q: Which were maybe contrary to what you were going to..

HARPER: No, they weren't contrary. We were all agreed on everything.

Q: So, substantively there were no problems?

HARPER: Substantively there were no problems. Our regulations didn't say anything other than an alien entitled to be classified, or consular officers can classify an alien as a such-and-such kind of non-immigrant, if the consular post has received a petition of approved by the Immigration Service.

Q: Which they hadn't?

Mr. Harper: Well, you know, as a matter of logic, whether or not they had published their regulations, if all our regulations say is, "if the Service sends you an approved petition, you accept it," we don't have any problem with our regulations. They're not going to be in conflict with INS reg's because we don't say anything substantive. Nonetheless, OMB wouldn't let us publish them because the Service hadn't published their regulations yet, saying what their criteria for approval would be. You asked me a few minutes ago, Bill, about getting back to 1965, and you know, where had I'd gone since then.

Q: You know, like what have you done since then?

HARPER: What have I done since then.. Yes, exactly, well, I stayed in the Visa Office for a longer period than usual, making my way sort of gradually up the line from Deputy Director of Regulations and Legislation, to Chief of the Field Operations Division and then Deputy Director of VO. From Deputy Director, I went to the Senior Seminar in

Foreign Policy. Wonderful year. I thought it was the best year I had ever spent in the Foreign Service.

Q: *This was 1965?*

HARPER: This was in 1971, at that time, after all I had...

Q: *Oh, 1971, all these other...right.*

HARPER: I had spent a year or two in all of these other functions, and running around the world at Barbara's insistence.

Q: *And being called back at Barbara's insistence?*

HARPER: And being called back at Barbara's insistence. But, you know, again interrupting myself, Barbara provided me with such extraordinary opportunities, such as the ones that I've mentioned of developing some management expertise by going to both well-run and badly-run posts and learning the difference. Of going up on the Hill and actually being the co-testifier, getting acquainted with the Members of Congress, not just the staffers, and you know, it's a tremendous development schedule.

Q: *Let me interrupt you, because you have said something explicitly that I think needs at least a paragraph of detail: the role of Congress. Congress is lambasted left and right, for all of its incompetencies, but you and I know that there's some good guys out there. Would you summarize your views with that period a particularly good one to concentrate on?*

HARPER: Well, it was a good period. And, I think in general, Congress, ahhh...it's hard to describe Congress's role. The Supreme Court decided in the 1870s that Congress had primary power over immigration under the Commerce Clause. It is a role that they have guarded jealously. Very jealously. So that, for instance, when Jimmy Carter named a working group on immigration, in '78, the Congress immediately enacted a Select Commission on Immigration to replace it, on which they would have four members. That sort of thing.

Q: *And it's true! It isn't politics, it's legal!*

HARPER: It isn't politics, so much as a certain amount of ummm...turf consciousness. We had as Chairman, Pete Rodino; actually he wasn't chairman of the full committee in the late 1960s, he was Chairman of the Immigration subcommittee, but he was Mr. Immigration. And Ted Kennedy was very active in the Senate. The House, however, was far more active with respect to immigration legislation than the Senate was. Jim Eastland chaired the Judiciary Committee for the Senate.

Q: *In title only.*

HARPER: Couldn't have cared less about immigration, except, of course, to keep immigrants out. And one of the most extraordinary things in the world was the way the Immigration Act of 1965 passed, because it went over to the Senate the day before they were adjourning, and it didn't go to hearings, it didn't go to anything that would delay it, it went directly to the floor and it was passed by the Senate. What do you know, we had new legislation.

Q: Was Eastland out sick that day?

HARPER: I really don't know what happened to the chairman, but in any event, there we were. Of course there had been hearings earlier; the bill was introduced in 1963, I think.

Q: I think Mr. Kennedy had a role in that.

HARPER: It was a Kennedy Administration bill. But regarding the Congress--the staff is usually very knowledgeable, but the individual members, for the most part, are not. The chairman was certainly, Pete Rodino was very knowledgeable. Some of the members--Ham Fish is the ranking Republican, and he is very knowledgeable. I mean, he actually understands the nuts and bolts. And it's the nuts and bolts that so many don't understand. They understand the policies but they don't understand how the policies work in actual practice. They are astounded when they find out that what they have enacted won't work as expected, which is to say, without pain for anyone.

Q: No pain, no gain?

HARPER: Exactly. There's a conflict between the sense that we have to have numerical limits and an apparent reluctance or simple failure to recognize the fact that limits imply waiting lists. After all, if there weren't more people who want to come than we want to let in we wouldn't need any limits. In any event, they worry about waiting lists...

Q: And it shows up in legislation...

HARPER: Sure. For example, in considering the 1990 legislation they were faced with the usual array of conflicting desires. One was to relieve the terrible backlogs in the second preference, which as you know is for the spouses and unmarried sons and daughters of lawful permanent resident aliens. World-wide there was a substantial waiting period, I believe about two or three years, but in the high-demand countries where immigration was restricted by the per-country ceiling, the wait was as long as eight to ten years. They wanted to cure that, to level out the waiting period for everybody. So they wrote a provision that gave 75% of the second preference numbers to the spouses and children (not unmarried sons and daughters) on the basis of not being counted against the per-country ceiling. That worked fine, as far as relieving the pressures in the high-demand countries was concerned. It also, however, reduced the number of visas available for such spouses and kids from the rest of the world, thus making their waiting longer,

which immediately generated a flood of correspondence from constituents howling about those increased delays.

Q: They don't like howls from constituents...

HARPER: No, they don't. Moreover, getting back to my point, they don't always understand even the Constitution. I remember informing a member of Congress, on one occasion, when I was so taken aback by something...actually he was being rather ugly about the kinds of people we ought to be throwing out of the country, and why did we have to have all of these procedures and what-not, so I reminded him that under the 14th Amendment these people were entitled to all of the same procedural privileges as U.S. citizens under the Constitution of the United States, and he was astounded to learn that. So, you know, they come in all sizes and varieties and, but by and large, our relationship with the Congress has usually been pretty...I can't say chummy, but, you know, cordial...

Q: Professional?

HARPER: Professional. And frequently downright cordial. We work very closely with the staff, and that helps. I mean that really does help to inform the legislation. As you know, time and again I have gone up to the Hill, Dick has gone up there, others have gone up there, and explained why section such-and-such of proposed legislation will not do, and cannot, in any which way, do what the sponsor of that section intends.

Q: And INS is responding in their own way for their own jurisdiction.

HARPER: And INS is doing the same thing. We do not go up and talk policy. We're prohibited by law from lobbying, I think we're prohibited from lobbying the Congress, so we don't go up and tell them that, gee whiz, you really gotta do X, Y or Z. We do go up and offer technical guidance, and...

Q: Usually visa oriented, though.

HARPER: Usually visa oriented. With regard to lobbying, now we don't exactly lobby the Congress, but we do occasionally submit legislation, proposed legislation to them.

Q: As the Executive Branch does all the time.

HARPER: As the Executive Branch does all the time, and obviously we tell them why we think it would be a good thing to do. If we didn't think it was a good thing to do, we wouldn't be recommending it.

Q: And the committees understand our human resource problem, our financial problems, our pressure problems?

HARPER: We try to make them clear; we're never sure that they do fully understand them, but then...sometimes when we testify about the fact that a certain provision, if enacted, would require additional resources, there seems to be something of an attitude of "our job is to enact legislation and yours is to implement it, so I'm sure you'll find a way." That's why we've had so much "doing more with less".

Q: There's a continuing movement. I heard it just the other day, again, and that is to move the whole visa function away from the State Department. To move it, for example, to INS. How do you feel the committees look at something like this today?

HARPER: Negatively.

Q: Why?

HARPER: I'm not sure why. I think that by and large ummm...there has seemed to be an attitude in Congress over the years, and as far back as I can remember, to the 60s, that the Service did not function as well as the Foreign Service. The Immigration Service did not function well.

Q: In general?

HARPER: In general. They get more complaints about the way the Immigration Service does this, that, or the other than they do about the way we have done this, that, or the other. And, therefore, they have been reluctant to cut us out. As you may recall, Bill--of course if you're overseas you don't recall these things too well 'cause you don't always hear them, but--there have been several executive reorganization plans which would have meshed either all or part of the Visa Office with the Immigration Service and the Congress has routinely shot them down. Another example was their repeated refusal to enact a non-immigrant visa waiver. They didn't want aliens coming here without a pre-screening by a consular officer. When I was consultant to Assistant Secretary Diego Asencio...

Q: Which was when?

HARPER: The early 1980s. He followed Barbara, who left to become ambassador to Malaysia in, I think, October or maybe November 1980. As I started to say, we were working very hard to get a visa waiver provision included in what became IRCA. Actually, we had been trying to get such a provision, as a piece of Department-sponsored legislation, since the late 1960s or maybe 1970s, But after the massacre at the Berlin Olympics in 1972, Barbara decided we should drop the issue...that the concern about terrorists was too great for that to be a good idea. It was introduced by various members in the intervening years and we actually testified against it. Then, in the late 1979--this is something of a digression, but it's a reflection of how things work--OMB asked us to do a study of what savings could be achieved with a visa waiver for nationals of countries who did not pose a serious threat with regard to over-staying and working illegally. Our study

showed something like 20 officer positions, another 80 or so local employee positions, and something over two million dollars. Although no such legislation had been enacted or was even under serious consideration, they promptly cut our proposed budget by that much. So as soon as possible we sent such a provision up to the Hill as a legislative proposal. And worked very hard for it. One of our selling points was the effect the non-immigrant visa requirement was having on our relations with some of our closest allies. Lord Carrington was British Foreign Minister at the time and he brought it up personally with the Secretary on more than one occasion. "Why do you require visas for our people when we let Americans in without them?" That's one time the foreign relations factor was useful.

Q: Meaning it was approved...

HARPER: Well, all we got at the time was a pilot program, limited to eight countries, but it has since been expanded. Anyway, maybe they've changed their minds in the last few years about the Service, I don't know, but I rather doubt it. And I think that would ahhh...

Q: The other side of that would be the State Department, or certain elements within the State Department, would welcome the disappearance of troublesome, human-resource-eater called the visa function.

HARPER: There are. Except that I think that those elements are not thinking clearly. (laughs) I really do. I can think of nothing that is more germane to foreign relations, than the movement of people across international borders. And anyone in the Department of State who looks at it purely as a resource problem, without taking into account the impact of foreign relations, is kidding himself, or herself, as the case may be. Even the Secretary has sometimes had his attention brought sharply to that fact. I remember well a not very happy experience with Cy Vance because I had revoked the visa of a South African boxer. You remember that if it is found that a person was not eligible for the visa, after he or she has already arrived in the United States, the visa must be revoked by a senior officer here, not the consular officer who issued it. Frankly, I don't remember the details very well and they aren't important anyway in this connection. What I do remember extremely well is Barbara suddenly hurrying into my office about 6:30 one evening saying, "The Secretary wants to see us right now! I don't know why, but it's clear he's not happy." So we raced up to the 7th floor, stopping en route to pick up our legal advisor...

Q: Not your personal legal advisor, but your professional one?"

HARPER: That's right, Bob Dalton, the Consular Affairs bureau legal advisor. Hodding Carter, the Department's spokesman was sitting in the corner of the Secretary's office with a bemused expression on his face, Vance was at his desk waving us to an adjacent sofa, and he was livid. He greeted us by banging his fist on the desk and shouting, "Doesn't anyone else ever understand the pig picture?" Well, what big picture? Turns out that Pete Botha (South African Foreign Minister at the time) had been ringing the Secretary's phone off the hook all day, protesting what he considered outrageous behavior toward a

South African hero. A boxer, yet! As I said, the particulars of the case aren't germane to this discussion, and the Secretary did finally calm down enough to listen to why we had to do what we had done. The point is, it's a splendid example of the top management sometimes learning what I was just saying--the movement of people across national borders can, and frequently does, affect foreign relations. "The big Picture", indeed! That's 30-40 minutes I'll never forget.

Q: But in the end he understood that you not only knew the big picture, but he was going to know the little picture.

HARPER: He was going to know the little picture, exactly. Anyway, getting back to the...my career, such as it was, I went to the Senior Seminar. A wonderful year as I said. One of the things the system asks you, of course, one of the things they ask you every year, is what do you want to do next? I had said that I wanted to do either of two things. I would like to be deputy chief of mission in a small embassy, relatively small embassy, because that time Barbara had persuaded me that I was a management specialist, and that's what DCM's do, for the most part (laughs). This was before Cy Vance. This was back in the early 70s. The big picture came along later.

Q: You're supposed to get that at the Senior Seminar (laughs).

HARPER: Yes, and the other thing I wanted...yeah I had learned the big picture at the seminar, for heaven's sake, but the Secretary wouldn't let me tell him so. The other thing I wanted, alternatively, was to be consul general in a fairly major post, in an independent post. I did not want to be consulate general in an embassy. I wanted to be consul general in an independent post.

Q: Like Montreal.

HARPER: And, not least, I wanted some place with good medical facilities, because the Aunt who lived with me was not in good health. My father had died in the meantime, and my own medical clearance was limited to places that were low level altitude and good medical facilities. So all of a sudden I was asked if I would mind being Deputy Administrator for a year, because Toronto and Montreal were coming up a year later, and one of Barbara's deputies, Fred Smith, wanted to go off for a year's senior training. They couldn't let Fred go to senior training without a backup, so it would mesh if I went into Fred's job for a year, and then went up to Canada. That struck me as splendid, and a year later I went to Montreal.

Q: Barbara hadn't left by then?

HARPER: No, Barbara was still there. She stayed through the Nixon administration, and it wasn't until Jerry Ford was president, and a Republican attorney with political ties wanted the job, that Barbara's resignation, her formal resignation submitted with a change of administration, was accepted, and so she left.

Q: *Specifically, Len Walentynowicz who also appears in this series.*

HARPER: Yeah, Len Walentynowicz came in. I went up to Montreal...

Q: *After your year as Deputy?*

HARPER: After the year as Deputy Administrator. We were still "administrators" in those days. Then, while I was in Montreal, they changed the title to Assistant Secretary. Meanwhile, we changed administrations. I was in Montreal through a fascinating five years. The day that I arrived in Montreal was the day after a general election, provincial election, and the Liberal Party had swept in with something like 103 seats out a 110, or numbers in that neighborhood.

Q: *Mr. Bourassa?*

HARPER: Yeah, Robert Bourassa. I was there for the Olympics in '76, I was there for the elections in '76 at which the Québécois...

Q: *What's a "Québécois?"*

HARPER: The Parti Québécois was the political party seeking an independent Quebec. It swung into just about the same size majority as the Liberals had three years earlier, and it was all a very fascinating time to have been there.

Q: *You had a lot of visa issues during the Olympics time?*

HARPER: We had lots of visas, we had lots of visitors, we had lots of everything. I don't know if you know, but Henry Kissinger's very fond of wrestling. The only thing for which the Secretary wanted tickets was the Greco-Roman wrestling. But, we had lots of other VIPs; for instance Secretary of Treasury Simon came up. He was interested in all sorts of sports, and oh, we had an enormous influx.

Q: *Part of the problem being semi-fraud, or security, or whatever you want to call it But there might be some people using the Olympics to enter the back door of the United States?*

HARPER: Oh, yes.

Q: *Did that turn out to be a reality?*

HARPER: We had thought it would be, that lots of foreign visitors to the Olympics would suddenly discover how close the U.S. was to Montreal and seek visas, but the volume wasn't as great as we had feared. Anyway, that was a problem for Bill Maule, the new consular section chief. I was spending my time trying to find out for the Department,

from my good friend Roger Rousseau, chairman of the Olympics Organization Committee, whether or not the Canadians were going to admit the PRC (People's Republic of China) to the Games and unseat, so to speak the Taiwanese.

Q: *And did they?*

HARPER: You know, the funny thing is...although I spent more hours than I want to recall on that issue, I don't really remember. I think that may have been the year that both teams were admitted--to the satisfaction of neither.

Q: *All of those things, even by you, have been forgotten, in part. But the memory of the Olympics stays on, as you know, because the physical location, and all that went with it, is still there and is still lovely.*

Ms. Harper: Oh, yes.

Q: *And as a matter of fact, recently--as recent as this morning--there was an newspaper article, I don't know if you saw it or not, condemning our present exhibit in Barcelona. And, compared the "theme monument" to the one by Buckminster Fuller, a beautiful round ball, which later burned down, but the frame work fortunately stayed up.*

HARPER: It burnt, I watched it burn down. I watched it burn down from the window of my office, as a matter of fact. But to get back to the chronology, I went up to Montreal, and had these five wonderful years, at which point I asked for a further extension. I was within a year and a half of mandatory retirement. So I asked if I couldn't stay until then, and the reaction of the Department was two-fold. One, B. J., you have already stretched...

Q: *Four years being the normal assignment.*

HARPER: You have already stretched beyond reason an assignment to one of the best posts in the Foreign Service, and there are other people who would like to go there. Moreover, even if we wanted to be sympathetic, we can't be because Barbara Watson insists that you come back as her deputy by September. Barbara, once Jimmy Carter took over from President Ford, was promptly reappointed and was back as assistant secretary.

Q: *So she was only away for the three years roughly that Walentynowicz was in.*

HARPER: Yeah, I would have thought it was even less than that. But yes, however long it was that...

Q: *She came back with the proviso that Francis Knight be gotten rid of. (laughs) And it didn't work.*

HARPER: I must say, I never heard of that proviso, because Francis was certainly still around.

Q: Barbara, God rest her soul, told me that. That she came back with those terms. (laughs) Not even Jimmy Carter could get rid of her.

HARPER: Indeed. In any event, I came back, as I say, in September of '78, as Deputy Assistant Secretary for Visa Services. And, everything in the world started happening. I mean, ahhh...Barbara was about as peripatetic as John Foster Dulles. Or Jim Baker, for that matter. (laughs) And so she was constantly gone, she sometimes took her senior deputy with her, and if she did, I was the next ranking. So I was frequently Acting Secretary. I was acting Assistant Secretary, including when Jonestown occurred. Fortunately Barbara got back very soon after that.

Q: We remind the reader this is the tragedy where a hundred or more Americans committed suicide in Guyana, South America.

HARPER: Seven hundred and something.

Q: Oh, seven hundred.

HARPER: I don't remember the exact number, 760 something comes to mind, but it could be off.

Q: That's something we haven't talked much about: protection of Americans as a vital part of CA's work.

HARPER: Yes, well, it started--as a matter of fact, my phone rang on a Sunday morning, at the crack of dawn. It was well before the crack of dawn. In November, dawn doesn't come very early, and this phone call did. It was about 6, maybe quarter of, from Jim Ward, who was at that time in American Services. He said, "B.J., I hate to bother you, but you're Acting, and some idiot down in Guyana has murdered an American congressman, and there is all hell to pay. I have already set up a task force", and I said, "oh Jim, thank you, ahhh...mercy to goodness" or words to that effect. "I have house guests, and you know, I have..."

Q: Mumble, mumble, mumble!

HARPER: Mumble, mumble, mumble! Yes! (laughs) So I stumbled around this and he assured me that my services were not needed, but I needed to be informed.

Q: So when the Secretary called you...

HARPER: Well, we don't take kindly to murdering our congressmen. Then the suicides followed. Anyway, I let Jim handle everything on Sunday. I mean, he obviously had everything under control. He already had the task force set up, I didn't see any reason for going in and interfering, but nonetheless I was deeply grateful to him, and I've never

forgotten it. Then, of course, the following February, as I said awhile ago, the Iranian revolutionaries overran our consulates in Iran and effectively closed them down. And then we had...

Q: *Afghanistan was invaded.*

HARPER: Well, Afghanistan wasn't invaded until after we had lost our embassy, and a whole bunch of hostages, in Tehran. So, all together it was a very busy time. Meanwhile, I was also--as I mentioned earlier, the Congress had enacted this commission to replace the Carter task force--and I was the Department's working member of the commission. That is to say, the Secretary was the Commissioner, but obviously somebody had to do the staff work, and I was it as the Deputy Assistant Secretary for Visa Services. So I was plodding off to meetings at the Select Commission constantly, I was trying to cope with the Iranians, once that had been delegated down to me, and in general, it was a very busy time. And, meanwhile, my retirement was approaching.

Q: *And it was mandatory.*

HARPER: It was the mandatory age limit. Yes.

Q: *Unless you were in a position like that, perhaps.*

HARPER: No, you had to be an ambassador.

Q: *You had to be an ambassador, or an assistant secretary perhaps.*

HARPER: Maybe, I don't know about the assistant secretary. But anyhow, DASs, no.

Q: *Many a DAS had tried to.*

HARPER: So, come the month before my birthday, I got this thick sheaf of papers, saying in effect, "Dear Ms. Harper: You know you're retiring from the Foreign Service next month so please fill out all these things in triplicate and return. Barbara said, "B.J., obviously we can't have you leaving at this point; will you stay as a consultant?" Certainly I would stay. I didn't want to retire. I wouldn't have retired voluntarily. There was a big retirement party on the 31st of July and on the first of August I was back at my desk.

Q: *With a different hat...*

HARPER: A different hat. I no longer had any operational responsibilities with regard to the Visa Office.

Q: *And probably no authority.*

HARPER: No, I was consultant to the Assistant Secretary, and I was still doing, except for operational things, exactly what I had done before. I was still doing the Select Commission, I was still drafting action memoranda to the Secretary saying you should agree to this proposition and disagree with that one, and defer to the Attorney General on this third one.

Q: But you couldn't sign visas probably.

HARPER: I couldn't sign a visa. On the other hand, I was still doing the Iranians; I kept doing the special Iranian cases until 1984.

Q: Who followed you in the job from which you retired?

HARPER: Bill Maule followed me as Deputy Assistant Secretary. He hadn't planned to, he had come down as my deputy...

Q: From Montreal?

HARPER: From Montreal. He was chief of the consular section in Montreal. Actually, I had brought him to Montreal. In the Spring of 1976, when we were about to move the office and we were about to face the Olympics, the chief of the consular section came wandering in one day and said I have decided to retire effective a month from now. Which sort of left me, you know...

Q: This is out of the blue.

HARPER: Oh, you know, real sinking feeling.

Q: And he wasn't nearing retirement.

HARPER: It was a she, and she wasn't near retirement. I mean it wasn't mandatory. She just decided that well, it was time to turn in her suit, so to speak, and go home. And so she did. I started thinking about the need for a really crackerjack, top-drawer officer, and it seemed to me that the best officer that I'd ever encountered really, consular officer, was Bill Maule. Moreover, I knew that Bill was in a bad state in the sense that he was in Beirut at the time...

Q: Having replaced me. (laugh)

HARPER: Where there was a war going on. The families had been evacuated. He and Sue were a very close, tight-knit family group with the children, and I knew that he didn't like being separated, I knew that she didn't either, and nobody really likes getting shot at...

Q: Or having their apartment blown up...

HARPER: Or their apartment blown up. And, particularly if they happened to be in it, but even if they're not. So, I called central personnel and said, "I am in desperate need of the best consular officer I can lay my hands on. How about breaking Bill Maule out of Beirut and direct transferring him here?" And, sure enough, they did.

Q: He'd been there, though, for two years. And under those conditions, that's not asking too much.

HARPER: Well, as a matter of fact, he had gone back for another two years, and he'd only been in there for one of them. So he really was being direct transferred a year early.

Q: Yeah. But after three years then.

HARPER: He and Sue were very grateful to get out of that situation, and back to a normal family life, you know.

Q: But to return to your retirement period, Bill Maule routinely transferred from Montreal to be your deputy in CA and then moved into your DAS slot upon your retirement.

HARPER: Well, life takes funny bounces. On the last efficiency report I wrote on Bill--there's a place you may recall on the efficiency reports where you project where you think whositz is going to be in five years, or ten years; how you see his or her future coming--on that last report I had projected that he would become consul general at Montreal or some post similar to it, and deputy assistant secretary of state. And by sheer happenstance he followed me in reverse order, first as deputy assistant secretary, and then some years later as consul general in Montreal.

Q: B. J., as we look back on your very extensive and rich career, much of it associated with immigration matters, the visa function above all, I think we, and perhaps the world, would agree that U.S. immigration laws are far from perfect. The laws have tried to react over the years to those many issues you've raised and discussed. How about, in summary, your telling us whatever you want to about what needs to be changed; how you would alter some of these aspects of present legislation on immigration, including refugee policies, on the general issue of people movement into this country.

HARPER: Well, I am not prepared, ad lib or otherwise, to provide the congress a blueprint for a new Immigration Act. The problems, as I see it, stem from the lack of a consensus in the United States, among the public in general. Therefore, it does not matter what kind of immigration law we have, it will always be subject to criticism, because the people of the United States don't really know what they want. I mentioned earlier that people tend to have two attitudes towards immigration. I mean, the great general public does. Knowing nothing whatever about how the law reads, let alone how it works, there is a conviction in the body politic that we're letting too many people in, but on the other hand, there are some people abroad that they would like to have come here. So there is

this bifurcated, conflicted view within the public. I personally believe that we will never settle the question of how many immigrants are too many, until we have settled the question of what should our population policy be in overall terms. How many people can this country afford to have in it, with normal growth, given the finiteness of natural resources, including such things as water.

Q: So that's a population question, as well as an economic question?

HARPER: So it's a population question as much as it is an economic question; actually, an intertwined problem. You may recall that we have had at least two, I think, select committees on the Hill on population. They went on for years and years, and they never ever came to a conclusion as to what would be the optimum population of the country. So if we can't arrive at some kind of a consensus on how many people would be a realistic maximum, it's not very feasible to design an immigration policy that decides how many new people can come.

Q: It's almost a question you can't ask, because it presumes our country can't grow anymore, for whatever reasons. And I don't know of any country that really asks that question or focuses on it.

HARPER: Well, I know. But I mean, this country is so diverse, and has so many interests, which I say are largely competing interests, for every labor union person who wants to protect the jobs of American workers, not just necessarily union workers but all workers, there is an employer who wants to bring in some foreigner to do something in particular.

Q: Even in this time of so-called recession.

HARPER: Exactly. Even in this time of recession. So there will always be these competing things, but we have to have something more of a community understanding of the problems regarding immigration. Of what these assorted competing interests are. And I think the sheer absence of general knowledge within the body politic of what these competing interests are that underlie immigration legislation makes it impossible to write legislation that will be generally satisfactory.

Q: What we've written in legislation so far is progressive, if you will, or at least takes cognizance of these contradictions. This then is amazing and perhaps satisfactory.

HARPER: Well, it's probably as close as we can come in the present circumstances. I think there is one thing that as a technician that I would change, as distinct from as a policy matter. The law is absolutely riddled with internal inconsistencies. For instance, one of the basic tenets of our immigration law has always been first-come, first-served; that is, an applicant's priority date, his or her place on the waiting list, is determined by the date the petition was filed, and visas must be made available in strict chronological order. The ceiling of 20,000 per country...it's now 25,000 plus...makes hash of that provision because there may be thousands of people from high-demand countries who

have earlier priority dates than people from low-demand countries but who have to be skipped over because the ceiling for their country has been reached. I don't oppose this; the per-country limit was a deliberate move to prevent any one or two countries from using up all immigration opportunities and I think that's wise. I just point it out as an internal inconsistency. It would be helpful, when they add such provisions...I don't remember whether that was in the 1976 or 1978 amendments but it was not in the '65 Act...if they would amend the basic provision to accord in some fashion with the new provision. But they don't. That's one of the reasons the Immigration Act is considered second only to the Internal Revenue Code in complexity. If we could ever get to a point where we ironed out some of the internal inconsistencies, if we could ever get to the point where the interaction of section this upon section that, and vice versa, was a little clearer in everybody's mind, including that of the Congress, it would be easier to interpret, and we would have fewer lawsuits. It's an extremely litigious area.

Q; You're referring especially to immigrants? *Because we must get into the non-immigrant, too.*

HARPER: Yeah. Well, I'm talking primarily now about the immigration provisions. You're absolutely right. However, the non-immigrant provisions are also a problem for several reasons. First of all, it has to be remembered our immigration laws did not distinguish between immigrants and non-immigrants, until we imposed numerical ceilings, at which point it became necessary. Up to that point, we just took it for granted that if somebody came, they either stayed or they didn't, but who cared.

Q; We didn't care because the nation was big enough, geographically, to handle it.

HARPER: Exactly.

Q: *And maybe is now.*

HARPER: Yeah. And, maybe is now. I'm sort of an expansionist type, you know, as far as my personal policy toward immigration is concerned. But, in recent legislation, the Congress has unfortunately tended to blur the distinction between immigrants and non-immigrants in ways that I think are unhelpful and make it harder to administer the law. And it...well, it doesn't necessarily make it difficult to administer the law. If that's what the Congress changes the law to be, well, that's the way you do it. But it does blur, which makes it even more confusing to the layman, and from a philosophical standpoint, I think that is not helpful. Recently there have been some provisions under consideration that would make even more of a mockery of the distinction between immigrants and non-immigrants. There's one bill on the Hill, on which they have held hearings, that would grant a non-immigrant status to the spouses and children of U. S. citizens, for the purpose of coming in and adjusting status, rather than waiting to get an immigrant visa, for heaven's sake. Well, now, mercy to goodness...It doesn't take an Immediate Relative that long to get a visa.

Q: *They'd get to work here.*

HARPER: And there is a similar provision, which is even more far-reaching, which would grant the same kind of non-immigrant status to the spouses and children to resident aliens. Now in the cases of the spouses and children of resident aliens, there is a long waiting period for a visa number for those people, so what this provision means that we just ignore the fact that they're not non-immigrants and bring them in to stay here for two or three or however many years, allegedly as non-immigrants, when actually they are immigrants. This offends me intellectually. I think it is intellectually dishonest, as a matter of logic; it offends my sense of logic. I'm all for family unification. I think it would be wonderful to let those spouses and kiddies in. I wouldn't have any objection to making them Immediate Relatives, you know, but as long as the Congress seems to believe that it is necessary to have numerical limits on such immigrants, then I think finding ways to evade the numerical limits, which is what they're suggesting, is not good public policy.

Q: *Let me pick up on that very thought, and blow our minds together. You reminded me that, of course, some years ago, people just came. And once they got here, for various reasons, it was determined whether they left or didn't leave. And it was relatively easy, so to speak. We have created, I will exaggerate, a monster. In some ways, it's almost an illogical monster, which causes visa officers to climb the wall because right off the bat the officers are given a requirement to determine if an alien deep-down is going to the U.S. with the intention to remain or is undecided, is "shopping". Sometimes the truth is in between. And sometimes they're lying, and sometimes they don't even know themselves. Let them all in. Open the door, let everybody come in. The real tourists are tourists, and will leave at the end of their journey. If they're ineligible because they've got AIDS, they'll be refused by INS at the port of entry; but they were for-warned by the notice of forms of ineligibility by the travel agents, airlines or other information sources...*

HARPER: Under qualitative grounds.

Q: *Here I'm talking qualitatively, in general.*

HARPER: They would waive the quantitative grounds and ...

Q: *Exactly, here we're speaking only of qualitative grounds of refusal. You know, INS kinda gives them a quick look over to make sure they've got two arms, or whatever it is that is qualitatively prohibited. Let them in as non-immigrants or immigrants. If they intend to stay and work then the various elements in this country that are the determinants: labor unions, ethnic groups, interested groups, etc. Then if there are numerical limitations imposed by Congress because we have too many people the Immigration Service comes up with, "Well, we're sorry, you can't become a permanent resident now, because we've taken in all the 20,000 numbers allowed for your nationality for this year." This isn't well articulated, but I thought I'd go to an extreme to try and get us out of this nightmare that we have.*

HARPER: Well, (laugh)..

Q: *Gulp!*

HARPER: Yeah, gulp. Frankly, I would find that just almost paralyzing in its implications, Bill. In the first place, what do you do to this person, what do you do with this person, to whom you say, well I'm sorry but the 20,000 or whatever it is now, 25,620, or whatever, all the numbers for your country have been used up for this year.

Q: *You can stay on at the job and wait here and continue to work until your number comes up.*

HARPER: Do you have any idea, I know you do have an idea, (laugh) how many people come in with non-immigrant visas each year?

Q: *Eight million, is it? And they're all perfectly valid in principal.*

HARPER: But they're not supposed to be working, for instance.

Q: *But some are.*

HARPER: Well, I doubt the majority are, but whatever the number, if they are then they're working illegally.

Q: *I would argue anyone that wanted to come over here illegally and work does, unless they're caught by the visa officer.*

HARPER: I really think that it is unrealistic to believe that the Congress would ever entertain the notion.

Q: *But this is just between us.*

HARPER: Oh, I know, but entertaining the idea of opening the doors to eight or ten million. In the first place...

Q: *Most of whom will leave.*

HARPER: Well, many of whom are illegal and will not leave, but probably most would. I think you're probably right. Most of them probably would leave. On the other hand, let us not forget that if those were the rules, those eight or ten million that are coming now would be twenty million.

Q: *The magnet would then start...*

HARPER: The magnet would ratchet up. No, I really don't think that that would work. You know when the 1921 Act was enacted, in effect, people made their arrangements and came to the United States and then found that there were no more numbers, so to speak, and then were turned around and were sent back.

Q: *Deported?*

HARPER: Ahhh...yes--or more accurately, were not admitted. It didn't work well. That's the reason that we now control the numbers. The Department. So that's not a very useful...

Q: *Just impractical, from a volume standpoint?*

HARPER: I think it's impractical from a volume standpoint. But, as I say, I think that if we want to distinguish between immigrants and non-immigrants, then we should do it honestly. You know, we shouldn't be legally cutting corners that make a mockery of the concept. We should either have the concept and enforce it, or we should take your suggestion and disregard it. You know, throw it out the window, and say well in the future...

Q: *I make this suggestion largely because we both know how difficult it is sometimes to anticipate an applicant's real motives. And papers mean next to nothing.*

HARPER: Oh, yeah. We sure do. And that's the reason, of course, that it would be difficult to adjudicate, re-adjudicate for review, visa refusals in the United States. Because in the non-immigrant case, so much of it relies on the credibility of the individual, and the individual is in front of the consular officer in Timbuckthree (sic), and would not be in front of a Review Board in Washington, D.C. As I said, those are the trends, I mean, that kind of trend worries me, because I think it is unhealthy public policy, I really do. On the other hand, there are those, specifically Senator Simpson, who want to re-write the law, not so much in substance, as editorially. He believes firmly that the law just simply can't be understood because it's written in legalese. I have a terrible problem with that idea, because every word in the Immigration and Nationality Act has, at one time or another, been defined by a court. And the minute you change any of those words...

Q: *Back to the courts.*

HARPER: Yeah. This is already one of the most litigious fields in American law.

Q: *Great "income" field.*

HARPER: You bet! And can you imagine...you know, that would be the Immigration Attorneys Welfare Act...

Q: *Maybe they're behind it!*

HARPER: ...if they start changing any of that terminology.

Q: Does Ron Mazzoli in the House have a view on this?

HARPER: Not to my knowledge, and I certainly devoutly hope that he doesn't have that one. I've argued this with Alan Simpson several times.

Q: *Getting at your issue, though, is the question of logic--as well as the practicality, or the impracticality of the law. You want to solve it logically.*

HARPER: Yeah. Dick Scully frequently accuses me of "committing logic". "There you go, B.J., you're committing logic again."

Q: *Well, visa line officers welcome logic. They want an answer!*

HARPER: Yes, and it is true that I am offended by things that are not rational. You were asking me how would I change the law, and I was saying that I didn't propose to undertake that exercise and I mentioned the absence of a general consensus in the community at large. One of the other things that is interesting about immigration, and the development of immigration policy, is that it has almost never, at least not until quite recently, ever been a partisan matter, that is, party politics. It has been a regional matter. It has been special interests, perhaps, if you want to call it that.

Q: *Agriculture versus labor?*

HARPER: Agriculture versus labor recently. The ethnic community's staunch defense of family migration, kind of thing. But it has essentially been a regional matter, and so, if the people in California were stressed by, for instance, Asian immigration earlier on, everybody, Republican and Democrat, it didn't matter, but everybody from California would vote one way. Everybody from New York state would vote one way. And, you know, the people in the great Middle West couldn't have cared less, because not too many immigrants were moving there anyhow. There were pockets, there are large immigrant communities, in Illinois, particularly Chicago, and some in Michigan, and some in some other places, but basically the center of the country has been largely untouched for the last, for most of this century by immigration and so they haven't cared. So it's been a regional issue. I came to believe in the 80s, particularly the early 80s, that there was something of an effort to politicize it in the partisan sense. Senator Simpson, seemed to be considerably more of a political partisan, in his approach to the development of what became the '86 Act, the Simpson Rodino Act, than I'd ever seen before. I found that both surprising and disturbing. I am always so pleased to see any kind of legislation or any kind of political issue which is not a partisan issue, which seems to be determined, really on the basis of the issues, as seen by the constituents of the members. And...

Q: *Tend to be more Republican or liberal or whatever...*

HARPER: It didn't matter whether one was a deep-dyed conservative or a flaming liberal, or you know, kinds of...

Q: *Maybe Mr. Kennedy's bringing in more Irish, was by ahhh...(laugh)*

HARPER: Actually Mr. Kennedy was not responsible for the Irish problem. No, I have forgotten who was, but way back in, starting as early as 1967, a bill was introduced saying, in effect, "the current immigration law, the '65 Act, discriminates against the Irish because they have been here so long they no longer have any first degree relatives to petition for them and moreover," (and this just infuriated me, because I'm one quarter Irish), "moreover, they are incapable of meeting the standards for getting a labor certification. Therefore, they can't enter as workers." Well, now, I didn't think the Irish were all that bad.

Q: *A bartender's a good cause. (laughs)*

HARPER: Anyway, that was the argument. And so this bill was introduced in '67 to exempt the Irish from the labor certification requirement. I'm not kidding you.

Q: *(Laughs) I never heard this!*

HARPER: Yeah. And the...

Q: *Was this Mr. Kennedy that did this?*

HARPER: No, no. This was a member of the House though I've forgotten who it was originally, but anyhow, naturally the chairman of the committee...

Q: *Buried it!*

HARPER: Exactly! Found the nearest waste basket. Congressional session after Congressional session, this silly legislation kept getting introduced and re-introduced, and sometimes...

Q: *No other country, no other group, nothing?*

HARPER: Well, after awhile they started using various euphemisms to identify Irish without saying Irish. Ultimately, when we got to what became the 1986 Act, there were so many provisions in there, which irritated one group or another, and so many other provisions that lots of people were for...

Q: To remind the reader, this is the law that really focused on people who were here illegally and working illegally. It punished, or whatever the word is, the employer. The Employer Sanction Bill.

HARPER: That's right. This was the Immigration Reform and Control Act, IRCA, of 1986. The bill had gone down to defeat in the House at one point, several years earlier, and then it managed to get enacted by both houses, in separate versions, at an earlier point, when I spent thirty days sitting in the conference, listening to these guys thrashing away fruitlessly. They never did get a conference report out before they adjourned. So now it's 1986, several years down the road, and, you know what I mean, there was a sense of real imperative about getting this bill enacted. And one of the...

Q: For what particular reason was there a "real imperative" at this point?

HARPER: There was a felt need to do something about the illegals. Now there were several felt needs; some groups simply wanted to get rid of the illegals and impose the employer sanctions in order to close down the borders, or at least persuade people not to try to cross the borders.

Q: With the assumption you couldn't practically close them down, you had to...

HARPER: If weren't any job prospects, you wouldn't come. You know, you wouldn't try.

Q: Motivation was the reason.

HARPER: Motivation, yeah. Let's take away the incentive to come. Okay. That was one felt need. Another felt need was to regularize the status of those who were here illegally, because it is unhealthy, in a societal and political sense, to have an underground community.

Q: A misused underground community.

HARPER: Yeah.

Q: Misused by all kinds of employers, and...

HARPER: There were all sorts of reasons why people felt that it was imperative to get something done. However, something like 102 amendments were submitted to the Rules Committee for House debate. The Rules Committee took one look at this and said, "That's just not possible." They simply plugged into the legislation about 15 or 20 of them, I mean willy-nilly. It didn't matter that the Judiciary Committee hadn't addressed any of them, they just became part of the bill. And the Rules Committee also permitted consideration on the floor of about 15 or 20 others. One of the things they adopted was Mr. Donnelley's latest version of the Irish bill which spoke of countries adversely affected by the 1965 Act, primarily meaning Ireland.

Q: And someone could prove it was the Irish who were adversely affected, I presume. Or didn't you have to prove it?

HARPER: We did it on the basis of statistics. If their immigration went down after the 1965 Act, they had been adversely affected. If it went up, they hadn't.

Q; It's a good definition. I don't know if your sense of logic, whether or...

HARPER: Well, it was as close as anyone would come. Turned out to be 36 countries, rather than just Ireland.

Q; Because it became more than Ireland.

HARPER: Yeah. But, in any event, that's how the Irish provision, that was one of those amendments they just simply plugged into the bill finally became law. It was not debated on the floor. It was a part of the take it or leave it overall legislation, but the managers of the bill felt that it was an amendment that was necessary to have in there in order to get the bill passed.

Q: Maybe also a sense of logic, in the sense that there was in it a degree of truth: the mathematics of the '65 law were not fully envisaged. Let's put it that way, that the law would produce changes in the composition of future immigrants.

Ms. Harper: I told you though, a little while ago, I think on about reel one, that we did this study, and gave them estimates that were right on all but one country, and that was Ireland. But your implication was right. It was not acceptable in 1967, in the full flush of enthusiasm for treating all the world alike, but was very acceptable in 1986, in response to the changed pattern of immigration...that is, a predominance of Asian and Latin American immigrants and a drop in those from Europe. Naturally, most, of those 36 countries were in Europe. We still have an Irish provision, you know. I mean, the original Donnelley provision only gave us 5,000 numbers for each of two years. Then that was extended and the numbers went up to 10 or 15,000 a year, and now we have a provision, an interim transition provision, for three years,

Q; Sounds a bit redundant, but...(laugh)

HARPER: For 40,000 a year.

Q: Is there a demand out there for adjustment of status in the United States or actual pressures, you know?

HARPER: Yes, the Irish government is very interested in this...ummm.... of the 40,000 per annum for these three years, the Irish get 40%.

Q: And the other 35 countries get a share. Explicit share?

HARPER: Nope. Just 40% go to the Irish.

Q: *Oh, the others first come, first served?*

HARPER: Others first come, first served--at least initially.

Q: *First in line?*

HARPER: Well, actually, in its initial formulation in the 1990 Act, it was first come, first served, except that you had to get 16,000 Irish out of it. And it operated in strict chronological sequence. In the amendments, technical amendments of 1991, it was changed to a system of random selection by computer.

Q: *Now this has nothing to do with the lottery, does it?*

HARPER: That is the lottery. More accurately, the random selection one is a lottery. It is my conviction that the first come first served concept is not a lottery. It may be a postal system crap shoot, as Dick would say, but it is not a lottery, because...

Q; And as he said many times, you do not have to come to the post office outside my office!

HARPER: Well, first come, first served has been the traditional order of consideration under immigration law. So I don't consider that a lottery, but obviously the random selection one is.

Q; Now those end this year, this fiscal year?

HARPER: No, no, last year was the first one, this year will be the second one, next year will be the last one.

Q: *There will be one more year. One more year, and then it ends. Until the next program comes along that you haven't written yet.*

HARPER: Well, then we have a permanent diversity provision. See, this is a temporary...I don't think they call it temporary, I think they call it a transition diversity program, and then we have a permanent diversity program.

Q: *And then, not to misuse the word lottery, this computer then will determine selection forever? Well, until the law changes again.*

HARPER: Well, the permanent diversity provision involves all sorts of...its sort of an amalgam of where you're from--you have to from a so-called low-volume area-- and it includes something of a point...well not exactly a point system, but a group of certain criteria, educational criteria, and skills criteria, etc., in order to participate. But, most of all, you have to be from a country and a region, which is under-represented. That's why it's called a diversity program.

Q: You brought us up to date, or as up to date as the moment. Maybe when we go read our newspaper in the morning it will have changed even again. But what you've done is very well summed up the pressures and interests that come to Congress, to the executive branch. In turn, reaction to Congressional decisions and the input that the executive branch might give. Do you think that this present compromise, and that's a bad word, will now go for a while? Is this the way to walk down this path of contrary, conflicting interests?

HARPER: I don't know. Ummm...There are several bills under consideration by the House Judiciary Subcommittee on Immigration, this spring. There have been several hearings recently. Whether or not any of these ideas will be enacted...

Q: Well, are they the fundamental issues you've laid out?

HARPER: Well, as I say, a couple of them involve these non-immigrant spouses, who are not non-immigrants, kind of thing.

Q: Well, that's relatively small though, now isn't it? It certainly is a specific issue, but...

HARPER: It's certainly substantive. But, in general, I would say that the feeling is anti "immigration legislation" at the moment. Jack Brooks is the current chairman of the Judiciary Committee of the House. When the '90 bill was on the floor, Mr. Brooks made it eminently clear that that was the last immigration legislation that he wanted to see while he was Chairman of the full Committee. And, he was, I mean, he was quite explicit about it!

Q: He tends to be...

HARPER: "By all means enact this legislation so that I can put it behind me." And, he feels or felt so strongly about the subject that he changed the name of the subcommittee. It used to be the Subcommittee on Immigration, Nationality, Refugees, and International Law as I recall. He promptly changed the title to the Subcommittee on International Law, Refugees and then down toward the end, Immigration and Nationality.

Q: But they're all there. The words are all there.

HARPER: The words are all there, it's just that you reverse the thrust, because he didn't want all that emphasis on immigration.

Q: But who's his subcommittee chairman?

HARPER: The subcommittee chairman is Ron Mazzoli.

Q: He's come back again.

HARPER: Yes, he did manage to get through the miscellaneous and technical amendments a year later, despite Brooks' earlier comments.

Q: Some of those had satisfied some of your--whatever you want to call them--more logical, less contradictory issues?

HARPER: Yeah. Some did. Some did. There were some real technical holes in the '90 Act, simply because they got in such a hurry, towards the end of the session, and accidents happen, you know. Lots of them, as a matter of fact. As a favor to one of the staffers on the Legislative Council who was working on a new Committee Print of the INA, I went through every cotton-picking word of the new law, versus the old law--that is, the old law as amended by the new law, compared with the law in effect the day before enactment, to make sure that there were no glitches, and notating where there were. We spent at least 8 hours on the phone afterwards, just my enumerating where all the glitches were.

Q: And then they would re-write it, or it would...

HARPER: And the technical amendments took care of most of those. There were also some substantive amendments in there. Regrettably, one of the amendments that I had proposed was not adopted because a member of the Immigration Lawyers Association managed to get to some member of the committee, and persuaded him that it was a crummy idea; just one single attorney, you know, who just went to one single member, and the next thing you know, my proposed amendment disappeared.

Q: One more example of your--how should we say--"varying list of factors". Here we have just one member of a group, and this probably has to be, for all the reasons you cited. Immigration policy formulation is a complex series of often contradictory, conflicting interests. And that's in all due respect for lawyers. (Laughs)

HARPER: You know, I almost went to night school to get a law degree when I was first assigned to VO in '65, and Hallie Mae talked me out of it. I've always regretted that she talked me out of it, but, of course, on the other hand, while I was not going to night school was when I was writing that confounded book "between two in the morning," so to speak. You know, as I look back on it, I cannot believe that I ever wrote an 800 page book on a typewriter when, if you made a mistake or you decided that this paragraph ought to go up or down a couple of paragraphs, you didn't just push a button and move it. You started with a fresh piece of paper and did it over.

Q: B.J., our personal work history goes back to those colleagues who even were working with "plumed pens", so to speak, because they felt more secure with older methods, rather than a typewriter! You and I have gone from typewriters to computers!

HARPER: Well, there are times when the computer goes down, and I think fondly of those plumes.

Q: *Yeah. And you can't find a plume, nor even a typewriter.*

HARPER: That's right.

Q: *B.J., you have explained in detail why you have not yet set out to write a new or changed law...very logically! Do you have any other words for our readers as you end our, I think, very productive and very enlightening insight into the realities of immigration to this country?*

HARPER: I don't know that I can add much, if anything, to what I've already said. I have found, that is, I find law fascinating, both in the citizenship field and in the immigration field. Nonetheless, I think I do understand, having been an officer in the field, I do understand the frustrations of the people out in the field, who get the sense that they're just spinning wheels, that any klutz can do what they're doing, and that really their minds are not being fully utilized. I understand it, but I don't agree with it. I don't share it, at all. I think it is critically important to understand the purposes of the immigration law, why it is in the interest of this country to admit some people, and not admit others. Why it is in the interest of the country, or at least as now understood, is believed to be by the policy makers in the interest of the country, to have X number, rather than Y number, and to take seriously, and always have sort of at the front of one's mind, what all those grounds of ineligibility are, and why we have them, and whether or not they are applicable to John Doe, who is standing at your window, or seated at your desk as the case may be. These are not "routine" functions or uninteresting, if done with the right attitude.

Q: *And maybe to live with contradictions?*

HARPER: I think it can be very intellectually challenging to do the job well. And I think that, because there is a great deal of sameness, there is a tendency to get careless, and not do the job well, and not give it the thought that it should be given. But I think that if one does give it the thought that it should be given, it can be a very challenging kind of assignment.

Q: *As indeed in foreign affairs.*

HARPER: Yes, and as I said earlier, I can think of nothing more directly a matter of international relations than the transfer of people across international borders.

Q: *B.J., could I thank you very much on behalf of the readers, and maybe some of those junior officers out there who will read this. We have to stop history every so often and look back. You've done a beautiful job and thank you very much.*

HARPER: Well, thank you, I'm flattered to have been asked.

Q: *Oh...*

HARPER: Well, I really am.

Q: *Thanks very much B.J.*

End of interview