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JOHN B. REHM AND THEODORE TANNENWALD, JR.

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INTERVIEW

Q: This is an interview with Judge Theodore Tannenwald, Jr. and attorney John B. Rehm. It is being held on the premises of Mr. Rehm's offices. The date is Jan. 21, 1997. It will be a part of the US Foreign Assistance Oral History Program collection, which in turn is part of the Foreign Affairs Oral History Collection. Judge Tannenwald and Mr. Rehm were present at the creation of the Agency for International Development. This was in early 1961. Their main responsibilities, as I recall, were the drafting of the legislation and congressional presentation. My name is Mel Spector. I worked with both Judge Tannenwald and Mr. Rehm at the time, and since I know them personally, I'm going to take the liberty of addressing them by their first names.

Background: Tannenwald

Ted, why don't we begin with you. Why don't you give us a little background first -- your date of birth, where you were born, very briefly your academic background?

TANNENWALD: I was born in a little town called Valatie, in upstate New York, about halfway between Hudson and Albany. I lived there until I finished grammar school. After high school I went to Brown, where I graduated in 1936, and then went to Harvard Law School, from where I graduated in 1939.

Q: Pardon me. How well did you do at Harvard Law School?

TANNENWALD: I received the Fay diploma, which is given to the person who has the highest three-year average.

Q: Wow! I just had to get that in.

TANNENWALD: Unlike a good many of my colleagues, I went directly into private practice in New York, with a little firm that's now a very big firm called Weil, Gotshal and Manges. The firm which was eight lawyers in 1939 is now 650. Anyway, in 1942, shortly after Pearl Harbor, I decided that I didn't want to stay in private practice with a war going on. I came to Washington and I got a job technically with the Lend Lease Administration but actually with Dean Acheson, who was then assistant Secretary of State for congressional affairs, I guess it was called. I worked with him for a year and then went overseas as a member of a section doing operations analysis with the United

States Air Force in England. I came back in 1945, after having been transferred to the Pacific and went into private practice in New York, back with my old firm. I became the tax man in the firm. Taxes had become an important issue. In 1946 I came down to Washington and operated the firm's Washington office, which I did for three years.

During that time, I worked part-time at the Defense Department, separating out the Air Corps from the Army after the National Security Act passed in 1947, which created the Air Force. Also, I was participating in the early stages of the Military Assistance Act. I then took a breathing spell for few months and came back in late '47 -- no, late '48 and early '49, when I became counsel for three months to General Lyman Lemnitzer, who later became chairman of the Joint Chiefs of Staff, and was then the assistant to the secretary of Defense for Military Assistance. We got the Military Assistance Act ready to go to the Congress, but I left before it actually got through, came back to New York and returned to Washington a year later in July of 1950, first with Averell Harriman's staff, as his counsel, and later, when he became Director of Mutual Security Administration (MSA), I became one of two assistant directors and chief of staff. Stayed with him until the administration changed in 1953. Stayed on at Harold Stassen's request for three months, then went back to New York in the spring of 1953, where I remained until I came down to do the Act for International Development legislation in 1961.

Q: Thank you. John? Little background, please.

Background: Rehm

REHM: Born in Paris, France, of American parents in 1930. But for World War II, I almost certainly would have stayed in France. My parents were profound Francophiles. But my father, who happened to be at the time sports editor of the Paris Herald Tribune, had fought in the first World War with the French Army and he was convinced that the Germans were coming again. So we left in 1937 and came back to this country. Attended what I think is the best preparatory school in all the country, Friends Seminary in New York City, an outstanding school. Then went to Harvard, graduated from Harvard in classics in 1952, went on to Columbia Law School, graduated in '55.

I spent my first year after law school with what was then Willkie, Owen, Farr, and Gallagher. Gallagher was the frighteningly senior partner of the firm and was responsible for bringing Willkie into the firm after Willkie lost his election to FDR in 1940. I knew that the Wall Street environment was not for me. During law school I had interviewed with the then-deputy legal adviser of the State Department to see if they had a position of any kind. I really wanted to get into international law, although I'm not sure I could have defined it at the time. As I reached the end of my first year with Willkie, Owen, I got a letter from Colonel Raymond, who was then the deputy legal adviser, saying he had a position for me. And with total ignorance, but for the fact that some god or gods were looking over me, I said yes. Because I could have landed in a backwater of L, as we called the Office of Legal Adviser. And there were some backwaters, where I think I probably would have been very unhappy.

But I decided to come down, and I can still recall so vividly meeting the managing partner of the firm, a sweet guy from Kentucky, who looked me straight in the eyes and said, “John, you’re throwing away a valuable career with a law firm to be just another paper-pushing bureaucrat, and beyond that, you’re taking a cut in pay to go down.”

No decision I have made, other than the woman I married, was so valid and right. Because I came into the State Department at the end of the Eisenhower administration, and therefore, I was able to feel almost physically the winds of change that Kennedy brought in to the federal government. All of us would agree, I think, that that was an era when we believed in the federal government, we had a sense of its productive capacities, its ability to do good things for people. I was in the State Department from ‘56 through ‘61, worked on the Foreign Assistance Act through 1961. Then, because of my legislative experience -- God knows, not because of my knowledge of economic affairs, I wound up very actively participating in the drafting and enactment of the Trade Expansion Act of 1962, which then led to my becoming the first general counsel of the Office of the U.S. Special Trade Representative -- now, many years later, a very successful and very influential agency of the Executive Branch.

Q: Now just before you went to work with Ted on the draft of AID legislation, you were working where, specifically?

REHM: I was in L/MSA, the part of L concerned with Mutual Security Affairs, that is, the foreign aid program. Douglas Dillon, then Under Secretary of State, had general coordinating responsibility for both the economic and military phases of the program. I was counsel to his top aide and, in turn, his staff. Bob Barnes filled that position before Jack Bell. From the first day I joined the Legal Adviser’s Office, I became a specialist in the foreign aid program. I’d done some legislative work before ‘61, but not all that much. I suppose I could say I was the lawyer in the State Department who knew most about the foreign aid program.

TANNENWALD: This is Ted. Can I ask a question?

Q: Surely.

Discussion on the creation of USAID and foreign assistance legislation

TANNENWALD: Am I correct in my recollection that the International Cooperation Act, or whatever they called it in the mid-’50s, abolished what had been the Office of the Director of Mutual Security occupied by Harriman, who had the responsibility for coordinating economic, military and Point Four assistance out of the executive office. It was replaced by whoever it was in the State Department that did the coordination.

REHM: I really don’t know the answer to that.

TANNENWALD: Because something happened to the Harriman office in the '50s, after I left, after Harold Stassen gave up. What I was doing basically I was Harriman's counsel.

REHM: I understand.

TANNENWALD: I was doing basically what you were doing legislatively.

REHM: I guess, as a footnote, that's simply another episode in what was, as I recall, a never-ending battle -- though it was resolved fitfully from time to time -- about how the AID program and the person running the AID program should fit with the State Department and its stated mission. That's always been at best an uneasy relationship and sometimes, as we know, a very strained relationship.

TANNENWALD: And I think it still is. I don't know if it's strained or not, but it's --

REHM: And in part for good reason, insofar as AID was to promote economic development and the State Department was to promote closer relations with a number of countries not interested in economic development.

TANNENWALD: This is Ted again. What John has said is the two incidents or two topics that I would have raised, because I remember very distinctly when we were getting the legislation ready to go to the Hill, there was a meeting in Ted Sorensen's office -- and John, I don't remember whether you were there or not --

REHM: I don't think so. I would have probably remembered that.

TANNENWALD: There was a big discussion as to what the salary of the director of AID should have! We had drafted it to put in a salary of \$500 more than the Under Secretary of State. There was all sorts of screaming from the State Department. Henry Labouisse, the then Director of ICA, said, "What's \$500? Let's forget it." I remember I said, "Harry, don't be a goddamn fool. It's not the \$500. It's the symbolism."

REHM: Of course! You were exactly right, Ted.

TANNENWALD: After the act was passed, one of the last fights I had was in determining the structure of the relationship between State and AID. And if there was a disagreement between the director of AID or the assistant director of AID and the corresponding geographical assistant secretary, who had the burden of taking it to the Secretary? State said, it should be the AID guy. And I said, "No, goddammit, it should be the State Department people. Let them carry the burden of appeal."

Q: How did that come out?

TANNENWALD: You know, I can't remember. Let me put it this way: I would be willing to bet that if I won the battle, the war was lost at least six months later. But those were two topics, two incidents, that fit exactly what you were talking about.

I got into this process of AID very simply. I was up seeing a client one day, when a professor of mine at law school -- he never practiced law, he owned a business, smart man -- one of his switchboard operators got me on the phone and said, "Judge Tannenwald, the White House is calling."

Well I was not a total stranger to what had been going on, because I knew that Administrator Dave Bell and Secretary Dean Rusk had suggested my name to Ralph Dungan. So I figured that's a call from Ralph. I got on the phone, and it wasn't Ralph, it was the President himself. He asked me to come down and told me that the two most important pieces of legislation on his agenda were the Foreign Aid bill and the trade legislation --

REHM: This is John. Ted, how did he know you?

TANNENWALD: He didn't know me. He didn't know me at all. I think he took Dave Bell and Dean Rusk's word for it. I'd know Rusk when he was assistant secretary of state and we'd been neighbors in Scarsdale and active in the Democratic Party together. So President Kennedy basically said, "Mr. Tannenwald, I want you to take the position as a member of the Task Force to prepare and get through Congress the foreign aid legislation."

REHM: You would have difficulty turning down the President.

TANNENWALD: As a matter of fact, I had said, if I get the request, it's got to come from high up, because my firm will never stand still and let me do it unless the request came from high up. The interesting part of this was that I said, "Well, Mr. President," -- first of all, I wasn't sure it was the President, I was almost about to say, who the hell do you think you're kidding, but I kept my mouth shut -- what I did say to him at the end, I said, "Mr. President, I'm flattered. I obviously should talk to my wife and my partners about this. May I call you back tomorrow?" He said, "Of course. I'll be here." So I called him back the next day, and that's how I got into this.

Q: That's nice. And tell me, how did you latch on to John?

TANNENWALD: I don't remember.

REHM: I don't remember either. All I can say is that, by virtue of the prior experience I just mentioned, I was a logical choice. But, on the other hand, we all worked in the government, and the logical choice isn't always the choice that's made!

TANNENWALD: This is Ted again. The only two people that I remember working on the legislation were you and Garfield Horn. Was there anybody else?

REHM: Oh yes. I headed up an interagency task force of lawyers from both Defense and the International Cooperation Administration (ICA), with whom I had worked previously on the annual authorizing and appropriating legislation -- but, of course, nothing so fundamental or far-reaching as a total overhaul. I probably had seven or eight lawyers on that team. Jane Holmer had been with the general counsel's office at ICA under John Burnett, a good guy. And I've forgotten, frankly, the names of the other lawyers. We were very accustomed to the annual process, working with the Bureau of the Budget, and particularly Ray Sternfeld. So there was already in existence a team to support this major effort under the Administrator Henry Labouisse Task Force. We wrote a series of papers on a variety of issues which we submitted to that Task Force.

In this regard, let me tell a little story on myself. In previous years, the legal team went out of its way not to indicate how it would decide one substantive issue or another. We thought our task was to put to our superiors the basic considerations pro and con and let the body, whatever it might have been, make the decision. I continued that tradition and pretty early on -- and this may have come from Labouisse himself -- the word was: "Rehm, for God's sake, don't give us the pros and cons. Just tell us what you think we ought to do!"

I've never forgotten that as a lawyer. The client wants -- it's not that he's bound by your recommendation -- but the client wants to know what is your recommendation. That's important to him. I'll never forget that.

Q: Well, Ted, why don't you take over in terms of the subject matter.

TANNENWALD: There's several things in terms of subject matter. Maybe it'd be useful to talk in terms of what I remember as the two biggest areas of difficulty and trouble.

REHM: I've noted two -- let's see if we agree.

TANNENWALD: One is the so-called back-door financing.

REHM: Yes!

TANNENWALD: The other is the carryover of unappropriated funds.

REHM: This is John. I would have put the administrative question -- who runs AID and its relationship to the Secretary of State -- among the top issues.

TANNENWALD: But John, was that really a problem with the legislation as such?

REHM: No, it was a problem that was there and had to be dealt with. My sense is that it affected the climate within which we drafted the legislation. But your point's valid. It didn't go to the express language of the legislation as much as the other two issues. You're right.

TANNENWALD: So-called back-door financing was a mechanism where you borrowed from the Ex-Im bank, then providing for loan money without having to get authorization year by year. You still had to get appropriations for that money, but you did that on the basis of specific programs. You didn't have to go through both the authorizing committees and the appropriations committees.

REHM: This is John. Let me ask a question in this regard, because I certainly would agree that this was the single most important substantive issue. But what was driving that, Ted? Was it a concern that we wouldn't get the necessary authorization from what were then the House Foreign Affairs and Senate Foreign Relations Committees? Weren't you confident that we would get what we needed from the authorizing committees?

TANNENWALD: It was not so much that, though that was an element in it. It was the fact that because the program had an impact on military systems, we would be involved not only with the authorizers in Foreign Affairs and Foreign Relations Committees, but also with the military affairs committees. There was also the fact that the authorizing process had all sorts of kind of restrictions and conditions --

REHM: Quite right.

TANNENWALD: -- that would be imposed but would not be imposed in the appropriations process. And could not be subject to a point of order. That was a very important consideration. We thought we had a good precedent in the Export/Import Bank. But it created all sorts of storm and we didn't get it.

Q: And it went on and on, didn't it?

TANNENWALD: On and on. Indeed. Maybe I ought to give you copies of this, I don't have it with me. It was the cause of a very significant personal involvement. Arthur Krock wrote a column, I don't know whether you remember this.

REHM: Oh, it comes through very well in the correspondence. And you took him to task.

TANNENWALD: I took him to task. And a member of the House of Representatives replied to my reply. I don't know whether you remember that.

REHM: That I don't remember.

TANNENWALD: A member of the House of Representatives responded to my reply to Arthur Krock.

REHM: Was he put up to that by Krock, do you think?

TANNENWALD: I don't know. His name was Gerald Ford. And I used to see Jerry occasionally at the Council of Foreign Relations....Anyway, I got into a lot of trouble. Then I got into another problem later on, I went on the Today Show with Sandy

Vanocour and took the position that we were going to have an easier time in the Senate than we were going to have in the House, because the House had to run every two years and therefore they were more sensitive to the isolationist feelings around the country than the senators, who were good for six years. Congressman Vander attacked me on the floor of the House, to the point where Dean Rusk called me and said, "You stay off the Hill from now on." I remember talking to Mike Mansfield, who was then the majority leader of the Senate, about the episode and I'll never forget his comments. He said, "Ted, you ought to know better. You ought to know you never get into a pissing contest with a skunk!"

REHM: This is John. Let me make one or two points to supplement what Ted has just said. I think we first ought to make clear -- and this comes through in your correspondence very well, Ted -- that, as we went into this really major effort, in the spring of 1961, confidence in, belief in, and support of, the foreign aid program was pretty weak. And repeatedly in your correspondence, Ted, particularly in the early part of '61, you see evidence of this. Fulbright, in particular, asking, "Well, what's going to change? What good have we done? Have all these billions of dollars really been to the benefit of the United States?" You sort of sensed a heavy cloud over the program, and we had to contend with that as we were moving forward with some radical ideas, such as back-door financing. I think that made the effort that much more difficult and the success of the legislation was very much in doubt for some time. Again, in Ted's correspondence, you see these recurrent pleas to the President either directly or through his aides, "For God's sake, can't we get the President to talk to a select group of the Senate Foreign Relations Committee or the Senate Appropriations Committee?" There was a general recognition that this was a tough battle, and success was by no means assured.

TANNENWALD: This is Ted again. One of the aspects of this was not only Fulbright and the attitude up on the Hill but my recollection, and I think my correspondence bears this out, that there was at best an indifference on the part of the White House. I remember there was one letter in there, one memo which I prepared which in effect says -- a memo from me to Rusk -- that says, "If you don't get the President, if the President does not pick up the ball and carry it with leadership, it will be a disaster."

REHM: You used the very phrase, "It will be a path to disaster!" That's what you said.

TANNENWALD: This whole problem, which was continuous, you never could get the White House to really take up the --

REHM: Now this is interesting. This is John. Let me ask a question. Here we have Ted telling us that the President told him, in trying to persuade him to take the job, that the foreign aid bill was one of two really major pieces of legislation. Why didn't that message get through in the White House? Whom were they trying to protect? What was going on in the White House staff?

TANNENWALD: I think the answer to that John, was his staff around him, who implemented what was I think Jack Kennedy's basic concern, which may not have been

reflected in his statement to me about the importance of Foreign Aid legislation, because he wanted me to take the job. He may have overstated, but my contact with Jack Kennedy, and I saw him two or three times with Dean Rusk, was that he was very sensitive to the fact that he had won the presidency by a very narrow margin. The playback on the Hill from the people like Senator Fulbright, I think, gave him real concern that he did not have the support of the country that he would like to have for being a hard push on this. This is pure speculation on my part. Two or three times that I did, twice I saw the President with Rusk in his personal quarters upstairs in the evening. Twice I didn't confront him with the question that you just raised directly but I did refer to it. He said, "Oh, I think it's very important." I couldn't say, "Mr. President, if you think it's that important, why the hell aren't you doing more about it?"

Q: Did he, to your knowledge, have individual sessions by phone or otherwise with key people on this bill? Or did you really not succeed in getting him that involved?

TANNENWALD: He had a couple. I can't pinpoint it for you. He didn't have anywhere near the continuous relationship or in the final stages of the legislation -- what the Presidents now do is to pick up the phone and twist peoples' arms. He did not do that.

REHM: Would it be fair to say in your recollection, Ted, that Fulbright presented the most serious problem because of his immense stature and influence in the Congress?

TANNENWALD: Absolutely.

Q: Okay, sir. Ted, let's have another one of your topics.

REHM: I'd just like to effect closure on this point. Back-door financing failed. At what stage did it fail? Did it fail immediately?

TANNENWALD: No, it was in there in the early drafts of the legislation. I can't remember if it came out in the House bill originally or not. I don't know whether the Senate or the House passed the first version. I was looking for that in this file.

REHM: I don't think it's revealed in that file.

TANNENWALD: It would take some research to prove that out. So we fell back upon the traditional authorizing. Couldn't do anything about it.

REHM: I was just going to say, at least as I look back upon it, back-door financing failed because it was viewed, rightly or wrongly, as a kind of major vote of no confidence in Congress, almost an insult, because it was such a deliberate bypass of their normal procedure.

TANNENWALD: John, to go back to your statement about the administration relationships as being an important element. I have a question: I was a member of a four-man task force. I was the legislative man. But I also occupied -- this happened in April of

'61 -- I acquired another title and became Special Assistant to the Secretary of State. I'm trying to figure out why it was important that I did that. Was it to put me in a better position to coordinate through you the lawyers' activities in the various agencies, or what?

REHM: I do not remember either. My surmise would be that it was concluded that, in order to move with great rapidity on such a major piece of legislation, you simply needed more authority than your position on the Task Force gave you. By being Special Assistant to the Secretary, that told the world that you were able to go to the Secretary himself, if necessary, to knock heads or resolve difficult issues. That's my surmise. I have no concrete recollection.

TANNENWALD: John, now that you've put it in that context, I think you're right. It wasn't just for the world outside. It was within the government, and the ability to deal with other agencies of the government as a member of a Task Force I was nobody. But as Special Assistant to the Secretary of State, I was in direct line to the secretary, I had access to him. I was speaking for the Secretary, the number one Cabinet officer. I think your analysis is probably correct. Because when I talked to other agencies, I didn't talk as a member of the Task Force, I talked on behalf of the Secretary of State.

REHM: Just a footnote, to contrast my experience with this bill, the Foreign Assistance Act of 1961, and the Trade Expansion Act of 1962. God knows, with respect to the latter, we had to contend with protectionism. But nevertheless, the very idea of the bill, based upon the notion of reciprocal and growing trade among countries, gave us a powerful economic argument for that piece of legislation. The poor Foreign Assistance Act of 1961, as you've already noted, had virtually no constituency -- for obvious reasons, because it was viewed by most as shelling out money with very questionable results, and in some cases, even unhappy results. I think any historian who views this has to remember that there was a kind of presumption against the validity of foreign aid at the time. You had your pure economists, who had all these models of economic development that were going to be applied throughout the world. You had a bunch of people in the State Department who had mixed feelings about the foreign aid program, some good, some bad. And then you had people, many in the Congress, who were outright opposed to it. So it was rough sledding from the beginning, and no one should have been surprised otherwise.

TANNENWALD: John, what you say is absolutely true. I think it's interesting to realize that we never had the citizens' support from the citizens' committee.

REHM: Even though you tried hard.

TANNENWALD: We tried hard, but never got it, in contrast to what they got in the Marshall Plan in 1947 and 1948. The Marshall Plan was a new venture. It was a limited program. It went to European countries with structures that could handle the money and knew what to do with it, and 12 years or 14 years later, people looked at what had happened, and what had happened in Europe was wonderful. But what had happened in

the intervening years in the rest of the world was terrible. And that's where all the money was going to go from 1961 on. Nobody out there in the citizenry could get interested or excited about foreign aid. We tried desperately to get support from Henry Alexander, but never got it.

REHM: When I came to the State Department the day after Labor Day 1956 and became part of a small unit of lawyers dealing with the foreign aid program, I think in the first six, nine months, based upon talks with people who'd been through the creation of the Marshall Plan, it was perfectly obvious -- this was just the mid-'50s, now -- that that was the golden era. That was the time when foreign aid paid off big. What were we doing? We were recreating western civilization. We were bringing back the great, marvelous traditions of the West and recreating them with this highly enlightened and yet very successful program. So by the mid-'50s you began to see all the struggles and tensions about how much for military, how much for economic, how do economic grants and loans work. All these issues continued through the '60s, and I guess they're still with us today.

Q: This is Mel. I want to just make a comment here. When the Marshall Plan was being launched or being thought about, I think some of the public opinion polls were down around 28 or 29 percent of support. Somehow through whatever, the President, the Congress, Vandenberg, and other things, there was built up this great support to finally get the legislation through.

REHM: True. I didn't mean to minimize the difficulty. It was just that those working on it had such a powerful argument that it really would restore to economic and political health England, France and so forth.

Q: And what people didn't really appreciate it was a much easier job. You already had the institutions, the infrastructure, the human resource base, that we were trying to build in all these other countries.

TANNENWALD: And you had a President that was willing to go to bat.

REHM: Absolutely.

TANNENWALD: Jack Kennedy never was. President Harry Truman would never lay down on that. One of the main reasons for that, in my humble judgment, was their personalities. Harry Truman revered Dean Acheson. And Secretary Dean Acheson understood what the Marshall Plan was all about, and it was, in my book, Dean Acheson who got the President to do what had to be done in the White House. I may be giving Dean much more credit than he's entitled to, but that's my view.

TANNENWALD: That's my list. I can go through this and put on some other stuff, but I'm a little bit at a loss at this point. John, you may have some others.

REHM: You touched on the major points that I had briefly jotted down. I guess neither of us, Ted, really kept track of what happened after the enactment of the legislation. I was pulled off into foreign trade, and you went back into private practice. So I didn't get any kind of an assessment as to how things were going.

Q: You left at what point?

TANNENWALD: I left in September of '61.

Q: And had the legislation been passed?

TANNENWALD: Yes.

Q: So you both were there at the end?

REHM: Oh, absolutely. I must have worked on aspects of the legislation after it was enacted, but it was in December of '61 that I can recall Abe Chayes calling me. He was then the Legal Adviser, a Harvard Law School professor who was very close to George Ball. Abe called me and said, "The President's decided that we're going to send up a totally new trade bill by the end of January." And this was about Christmas. With others, I never worked so hard as I did that month of January. I mean it was literally 20 hours a day, every day. What I'm saying is, I lost sight of the Foreign Assistance Act of 1961 at that point.

TANNENWALD: John, you can check me out on this, but I think the one person who's still around and in town who could cast some light on the questions you just raised, is Seymour Rubin.

REHM: I think you're right. In fact, I know you're right, because he spanned our period and then the later period.

TANNENWALD: And Sy is still around, in good health, everything's functioning fine.

REHM: That's a good suggestion.

Q: I would like to add my view, since I became the director of personnel, as you know. As you know, the first person to be named a member of the new agency was Jack Bell. You lawyers somehow figured out how he could be made that.

TANNENWALD: What position did he take?

Q: I think he was acting administrator. He appointed me as the director of personnel management, and after that we made all the other appointments.

TANNENWALD: Did Henry Labouisse leave?

Q: That is the point I'm trying to make. To this day, one of the worst mistakes was letting Harry go. But people in the White House, like Ralph Dungan especially, and Dick Barrett, said this guy is too soft, he's too nice a guy. They brought in -- first, as you recall, they were going to bring in a banker, someone from Boston, but he had some kind of a bad reputation, he had tried to do something or other. So they switched guns and they brought in the man who they were going to make head of CIA. He was a terrible choice. I can't think of his name at the moment. So you had a problem with the top leadership of the agency, after the good work that you two had done that had given us the agency and the format. It didn't have any real leadership at the top. Fowler Hamilton, he was the guy. Terrible choice. Nice man, very nice man. Let me tell you a story about Fowler. He called me in. He called in a couple other people. It was in that small office across from Labouisse, it was a little office, Labouisse hadn't left yet. He said, "Let me tell you how I'm going to run this agency." He said, "You know, I come from Wall Street and I'm a lawyer. When I came here, I took a taxi from the railroad station and the taxi driver put down what he had done that 15 minutes. As a lawyer, I put down what I do every 15 minutes or every 30 minutes. I want every person working for AID throughout the world to keep a time sheet the way I do in my office in New York, as a Wall Street lawyer, and I want them all sent to me." He said, "Of course, I won't look at all of them, but I'll pick through here and there and see how things are going."

I looked at Bill Sheppard and Scott Moore and we looked around at this office and thought, where is he going to pile up all of these? He didn't like running the agency. He called me in a couple times and he'd say, "There's the World Bank." This was back in '62, now. "There's the World Bank. They run that whole operation with 800 people. We have about 7,000 around the world." And he said, "We've got to cut back to about 800 people."

Fowler didn't last. Then they got in Dave Bell and that's another story. Dave was pretty good. But you always had that problem with selling foreign aid. Part of the problem I think that John you were talking about was that foreign aid people never got over to the public how much domestically they benefitted.

REHM: That's exactly my point. It was viewed as a foreign boondoggle with no domestic benefits.

The question I would put to Ted is -- I think he's in a better position to answer it than I, though I have some notion -- in terms of the legislation that we helped prepare and that was submitted to the Congress, as compared to the final legislation, did we get pretty much everything we wanted but for the back-door financing?

TANNENWALD: The answer to that question is yes. It's an interesting point, because in the process of dealing with the back-door financing provision and the storm it created, we deflected attention from a lot of the other stuff that we would have had a hell of a time with!

Q: Are you suggesting that that was the purpose of this ploy, Judge Tannenwald?

TANNENWALD: No, I'm only suggesting that this was a very more than incidental benefit.

Q: A strategy that is often used on the Hill.

TANNENWALD: We got practically everything else that we wanted.

REHM: I think architects call that a bay window. You put on a bay window and then say, I don't like it, take it off.

TANNENWALD: Or a lightning rod.

Q: Were you persuaded that the back-door financing was as vital as we attempted to argue to the Congress?

TANNENWALD: No. I never thought it was that important, but I understood why. It was part of the job.

REHM: This bears very much on this oral history, I think, Mel. What body or what individual as you recall made the final decision that we were going to go for this? Was that a pretty senior decision?

TANNENWALD: Yes. This is pure surmise, because I really have no distinct recollection, but my best judgment is that the key to this was Frank Coffin. He had experience with the development loans money --

REHM: And also being a congressman --

TANNENWALD: And also being a congressman. If any one person played the leading role in getting the Task Force to go for it was Frank. But I can't prove this, this is just my recollection in the context of the whole process as I remember it.

REHM: One of the pieces of correspondence in your file that I remember particularly vividly, you're -- I'm not prepared to say constantly, but frequently -- you're badgering people, saying come on, let's get a really clear and concise statement of the basic reasons why we need this. I think at one point I sense that you were driven, because others weren't doing it, to drafting it yourself.

TANNENWALD: That's right!

REHM: It's what we call a white paper in the State Department, trying to set forth for the consumption of people who don't know much about these things why this is really necessary. So I think you did the best you could, but ultimately, of course, as we've already said, it failed. But otherwise, we were successful. That's really my impression.

TANNENWALD: Not only successful in getting what we wanted, but successful in burying so that they never came to light a lot of other things that other people wanted that we wouldn't want. It was a dual victory, dual benefit, I would say.

Q: Who were our two or three best friends on the Hill?

TANNENWALD: Boyd Crawford, Chief of Staff of the House Foreign Affairs Committee. Doc Morgan was chairman. Doc Morgan was a very good man. And on the Senate side, --

Q: Humphrey?

TANNENWALD: Senator Humphrey, of course. But Fulbright was always difficult. I had most of my dealings with Humphrey.

Q: Carl Marcy, chief of staff of Senate Foreign Relations?

TANNENWALD: Carl was wonderful.

Q: George Denney? Brad Hoag?

TANNENWALD: There was a time when George Denney and Brad Hoag, whom I see occasionally --

Q: But there was a time, Ted, when you came to me and we couldn't get it past Marcy. You may remember this. We wanted to put something in the act, in the authorization act that would amend the Foreign Service Act, that would permit us to be more forthcoming with the families in the medical field. It was broad and Marcy was dead against it. And people knew generally that I was fairly close to Senator Mike Mansfield because I had met him in Mexico and had been his bag carrier there. Mansfield loved technical assistance. So you and I went to see Mike, got him off the floor. He was always great, you could always get him off, go meet him in the cloakroom and he would sit on the table and swing his feet and say, Okay. And we got around Carl.

TANNENWALD: Why was Carl opposed? Sounds like discriminatory treatment.

Q: No this was for the entire foreign service, you see, not only for the Marshall Plan. The reason we were pushing it so much was that we were bringing a lot of African countries - - remember that was the big deal whether Africa was really going to come into the ken. This was new. And for some reason I think State was against it. State was always against new ideas for financial reasons. We began with the Marshall Plan and we got it all the way through, we used -- you know, Paul Hoffman had a choice whether to use his own new personnel system abroad or to use the State Department system. He chose the State Department, and that's how I got over there, because Everett Bellows and I were sent over there to set up the Foreign Service part. So we found early on that State had a lot of antiquated ideas about how to do things. For example, if you were on home leave -- home

leave was every two years, hopefully -- but if you'd been overseas a year and a half and your mother was deathly ill and you went home to tend to her and came back, your two years began again, which was ridiculous. And we just said, no. Nothing in the legislation says that.

Well, State was always against liberalization for financial reasons. They'd keep saving money this way, you see. And the same thinking, I would think, was applied to the African thing, which cost us a lot of money. But I have a question for both of you: It involved me at the time greatly and Jack Bell. One of the big questions was, what do you do with all the personnel from the old agencies and the new one. You remember, AID was brand new. In effect, you were hiring brand new. But there were laws on the books for things like this, that when a new agency was set up you still had to use what was generally put under the rubric of "reduction in force." I wanted that and so did Jack Bell. Because I had been the head of Stassenization a few years before.

TANNENWALD: Boy, I haven't heard that term in a long time.

Q: Where Harold Stassen, as you know, used that authority. We had a Ribicoff amendment, and Ribicoff was a congressman. Twice we used it where all laws were suspended for 60 days and you could get rid of people as you saw fit without regard to any law. But we used regular reduction in force until it hurt. And then you either kept the very bright young person who didn't have a lot of retention rights, or you got rid of that old person with a lot of seniority but was really just marking time. And it worked, but when Stassen came along, Stassen said he didn't want to do that and he wanted tests. And it really ruined the morale. It was a morale downer for the entire Foreign Service.

TANNENWALD: I can recall that.

Q: I remember we met in that big room, the whole Task Force, everybody, I think. It was decided then that we would go through the regular reduction in force. Jack Bell was a great man on that. As a matter of fact, the bills were on the Hill and they'd been passed both by the House and the Senate and they were then in the committee for reconciliation, is that what you call it?

TANNENWALD: You mean conference committee.

Q: As a matter of fact, Bill Sheppard and I went and played golf that afternoon. That's was the first day off we'd had in six or seven weeks. We got a call up on the fourth hole saying come back, saying the "ripper" is back in the bill. Now I never heard of something brand new going into a bill.

TANNENWALD: That's subject to a point of order. Can be done, but you've got to get away with it.

Q: You know how that got in there?

TANNENWALD: No. In 1951, when the Mutual Security Act was passed, the House had director from mutual security on the team under the jurisdiction of the Secretary of State. The Senate had director of mutual security as the boss of a totally independent agency.

Q: Reporting to the President?

TANNENWALD: No, just like the old ECA. And in the conference committee, they constructed a whole new structure, which had the director of Mutual Security performing two functions, head of ECA, now becoming MSA, and the coordinating function. And I was part of that, taking that legislation through in '51, I was working for Harriman. I remember with Jim Webb. We were up there waiting outside the conference committee. Nobody came and talked to us. They did it all on their own. So it does happen.

Q: I've always suspected it was Ralph Dungan, because Dungan was always against the idea. He wanted to be very sure...he wanted to pick whom he wanted at the old agency. Are there any other phases of this we haven't covered?

TANNENWALD: No, I have a question to ask you, Mel, and I'm not trying to impose a burden on you because you don't have to do it if you don't want to. There are, I think I've marked in the paper clips, some are yes and some are no. I'm in no hurry to get these back. Would you want to take these files and look through them in light of what you heard here and decide whether there are any of those documents that you'd want to have copies made as a supplement to what we're talking about?

Q: Can you hold onto them? As you both know the 50th anniversary of the speech of Secretary Marshall at Harvard will be on June 5, 1997, and one of the things that are being discussed around the country are what are the lessons of the Marshall Plan and what should we not try to replicate that we think was a Marshall Plan kind of idea. Ted, do you have any ideas on that?

Looking back on the USAID program and organization

TANNENWALD: Well, one of the things that's always bothered me is that the AID program continued to operate -- less so now than 20 years ago perhaps -- in the framework that what we did in western Europe could be done the same way in the rest of the world. It won't work that way. The reason we were successful in western Europe was that we had governmental structures who knew how to take advantage of the offer of the United States and use what we supplied in a useful and fruitful way. These developing countries -- some of them now have the structure, maybe it'll be better -- but have never had the governmental or infrastructure (I don't mean infrastructure in terms of roads but in terms of mechanisms) that could effectively utilize AID. As John as indicated, one of the problems with this was that somehow the money that was going to developing countries was going down the drain. Nobody could see where it's gone or what it's accomplished. And we've not been able to evolve the mechanism to deal with that problem, which is totally different from what we had with this.

REHM: I agree. As I look back, beginning in the mid-50s when I began to be a specialist in the foreign aid program in the State Department, I think there was a kind of unstated belief, hope, maybe illusion in the final analysis that was based upon what was clearly perceived to have been the outstanding success of the Marshall Plan. It was an article of faith, however naive, however illusory, that the same thing could continue in the foreign aid program in the '60s and the '70s and '80s, much more attuned, of course, and directed towards the developing countries. Although, God knows, you had brilliant economists working on the issue, I think that faith proved to be naive. And I sense, as does Ted, that we've not found another way, another mechanism for putting major resources in a developing country with a reasonable assurance that they will be well used, will reach the people who need them, as opposed to falling into the hands of the wealthy and corrupt who manage to send them out to anonymous bank accounts in Switzerland. That's what discourages me about the program, if my assessment is at all correct.

Q: Perhaps not on the same level, but looking back, as you know there still is an Agency for International Development, it is semi-autonomous under State, and as we speak in January of 1997, there is still a big push on the Hill coming from the chairman of the Senate Foreign Relations Committee, Senator Helms, to abolish AID as such, along with the United States Information Agency and the Disarmament Agency, and make them a part of the State Department. You both have worked on both sides of this. Do you have any ideas on that, Ted?

TANNENWALD: I've always felt that just having them operate as part of the State Department would submerge the economic area of this and the economic considerations to the political considerations. On the other hand, I recognize the problem of having it as a separate agency.

When I talked about the then-Mutual Security program, how it was organized and how it was administered, and having to deal with the questions you just asked about how to separate from the State Department, not part of the State Department. I shocked everybody, including a professor at the Littauer School named Bill Elliott, by saying it really comes down to the fact that it doesn't make any difference what the structure is like. It depends on who's the Secretary of State and who's the head of the Agency. Now with Dean Acheson and Paul Hoffman it worked fine because they understood each other and knew how to work together. You get two that don't know how to work together, doesn't make any difference what it is. You have those two, doesn't make any difference what's on paper either. So I'm not sure that the (question) whether it should be separate or not really is that big an issue.

Q: John?

REHM: I don't know whether it's that big an issue or not. God knows, in this city, we're all too prone to say let's fix it by reorganizing an agency. But I share Ted's concern that, if it were wholly within the State Department, I think there's a decided risk -- we saw this in foreign trade, we saw it in foreign aid -- that the desires and objectives of the State Department would overwhelm the other objectives which may not be the same or even

similar. You know, it's said that FDR believed in an Executive Branch which produced as much debate and dissent as possible. He loved to pit agencies one against another and have them clash, on the theory that out of that clash there might come some good and maybe new ideas. Therefore, I think it's important to maintain what I'll call a tension between the State Department and AID. I want the structure to invite differences of opinion and avoid a monopoly by the State Department. With USIA and the disarmament agency I would wish the same. Whether semi-autonomy is the right way to address the tension, I'm not sure, but I don't want the people administering those three agencies to be totally under the control of the Secretary of State. That's a bad idea.

I might add that this became a major issue with respect to the Trade Expansion Act of 1962. Wilbur Mills was chairman of the Ways and Means Committee -- in that day, a very powerful man, and parenthetically one of the best people in Congress I ever had the privilege to know in spite of his personal difficulties and his alcoholism. During mark-up in the Ways and Means Committee, Mills let us know emphatically that if we wanted this trade bill to pass, the Trade Agreements Program, as it was called, would have to be pulled out of State. Mills said that it had to be given to a new man who would be responsible directly to the President of the United States. God! The debate that that set off within the Executive Branch and the White House staff. But Mills won. And that's how we came to have the U.S. Trade Representative.

The State Department has historically been one of the most powerful agencies, now probably as powerful if not more so than Treasury and Defense. I don't want it to have total control over these other programs. Bad idea. I want a lot of dissension and debate and nasty rhetoric in my Executive Branch.

TANNENWALD: John's comment is interesting because I've often wondered, and now I know the answer, though I think I knew it before, but this has emphasized it, highlighted it, in this move to merge the three agencies with State, I heard no talk about trying to re-establish what was unsuccessfully tried in 1962. No one's talking about putting the US Trade representative's office back. That's because it's been a success. The contrast between AID and that in this context is enormous.

REHM: Very good point!

Q: Why?

TANNENWALD: Because AID has fallen on its face. The US Trade representative has not.

Q: Why is it that the trade representative, no one's talking about putting that under the State Department?

REHM: Ted's reason is right, because it's been so successful. Not only because it's been so successful, but because it became successful even in our days by virtue of being separate from the State Department. So it could be held up as a classic example of how an

agency comes into its own as an influential body, by virtue of being taken out of the State Department.

TANNENWALD: But there's also another aspect of that, John. Unlike AID, US trade representative has consistently, over a 30-year period, had top-notch people in the job, as far as I know, who were able to sustain it and build it and expand it, in contrast to AID, which has had a series of ineffective administrators, up until the present one, whom I think has been very good.

REHM: I'm not sure that our trade representatives have been consistently good. But, although we can play all sorts of statistical games, it is nevertheless true that, since the second World War, world trade has increased exponentially. The United States has been able to benefit enormously from that growth in trade and can point in part, certainly not alone but in part, to a trade agreements program which, through a series of multilateral trade negotiations beginning with the formation of the GATT in 1947, brought about a steady reduction in trade barriers throughout the world. US exports have been able to take advantage of that. There's a payoff, there's a concrete quantifiable payoff that you can point to as a result of what the United States has done in a series of multi-lateral negotiations. You can't do that with the AID program. It's much more difficult to quantify the selfish benefit to the United States, its own economy, its own workers, its own companies. That's one of the reasons that I would give.

Q: Speaking as an organization man, isn't it important that the chief of operations reports to the President and not through some Cabinet official?

REHM: Oh, absolutely. To my knowledge, the number of instances when the trade representative felt that he or she had to go to the President were quite rare. But the authority was there, and the other agencies had to reckon with that. So that when the trade representative felt strongly and was opposed by State, or Agriculture, or Commerce, or Treasury, they all knew that he could go to the President and say, Mr. President, they're wrong, I'm right, I want you to support me. And, in most cases, the other agencies were not prepared to take that gamble.

Q: In writing the legislation you had already given as a given that military assistance would go back to the Defense Department.

TANNENWALD: That's correct.

Q: I can attest, and it fits in with what we're talking about, later I went back to State and was in the office of the Assistant Secretary for InterAmerican Affairs. One of the things that bothered President Kennedy very much, and so it bothered us, was that military people in Latin American had their own foreign policies.

REHM: Oh, God yes!

Q: As an example, in Nicaragua, just before President Kennedy was assassinated, there was a coup, which we were told was fomented by our own military people. The assistant secretary then recalled the ambassador, recalled the AID director, recalled the head of USIA, but the military guy wouldn't leave. He said you can't tell me what to do. We had to go to the White House, get Ralph Dungan, who was the Latin American guy, to call Bob McNamara, who in turn called the chairman of the Joint Chiefs of Staff to get the military to move. So, it depends on where you sit.

Well, do we have any final thoughts? Ted, John?

REHM: I've thoroughly enjoyed this.

TANNENWALD: I have, too, and maybe when we read the transcript, John, you and I'll get some further ideas.

Q: I'm glad you said that, because I was going to say in connection with the documents. There are a series of paper clips, little yellow notes, if you have the occasion to review them, that might prompt some further information. I would be more than delighted to participate in a follow-up session, if that seems profitable.

End of interview