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Kenneth Rush (May 19, 1972)

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Oral History Interview

with

HONORABLE KENNETH RUSH

May 19, 1972
Washington, D.C.

By Dr. C. Richard Arena

For the Richard Nixon Oral History Project

ARENA: This is interview #1 with Mr. Kenneth Rush, the Deputy Secretary of Defense of the United States. Today's date is May 19, 1972. We are in Washington, D.C., Arena interviewing. May I begin, Mr. Secretary, by asking you where and when you were born, and to give a brief resume of your formal education and your career to date.

RUSH: I was born in 1910, on January 17, 1910, in Walla Walla, Washington. The place of my birth was largely an accident. My ancestors had lived in Virginia and Tennessee from before the Revolutionary War, and my mother and father lived in Tennessee. My mother and father who were quite young decided they wanted to see the West, and in those days you didn't have automobiles. So they went out and they were in the West for over a year, and I was born in Walla Walla while they were there. About six weeks after my birth they returned to their own home in Greeneville, Tennessee, and I grew up in Greeneville, Tennessee. I attended high school at Doak High School in Tusculum, Tennessee, which is four miles from Greeneville. We really lived in Tusculum but we talk about Greeneville, which is the town.

Then I went to the University of Tennessee where I received my Bachelor of Arts degree in 1930, and I then went to Yale Law School where I received my LL.B. [Bachelor of Laws] degree in 1932. I was editor of the Yale Law Journal while I was at Yale Law School.

I then went into a large law firm, Chadbourne, Stanchfield & Levy, as it then was called, in New York City [New York]. I practiced law there for three and a half years. I then was made

a very flattering offer with a large increase in salary to join the law department of Union Carbide Corporation, which was the second largest chemical corporation in the country, and I accepted this offer, one reason being that the law department had a very high prestige and the president of Union Carbide had more often than not come from the law department. I had been there only a month when I was offered a position of Assistant Professor of Law at Duke Law School. I had toyed with the idea of returning to the South. I had only really gone to New York City because that was the one place I could make a living. I had to work my way through school and was in debt and hard up, but I went down to Duke, where I had the pleasure of knowing the President, who was then a senior. I taught law in the years 1936-37 at Duke and then I became engaged the prior summer and I was offered a very flattering offer by Union Carbide to come back with them. This was on a visit to Boston [Massachusetts] where my bride-to-be and her parents lived. And I almost decided to stay at Duke. I wrote out a letter even, saying I had decided to stay at Duke and I pulled down the flap of the mail box--the letter was almost all the way in and I pulled it out and thought it over and decided to go back to New York. Duke had offered me a full professorship if I would stay. And I often wonder what my life would have been like if I had stayed. It would have been, I am sure, an interesting one there.

I then returned to New York and soon got into some very interesting war activity, because preparations for war were under way in 1940 and I negotiated for the corporation and most of the important contracts to build plants and the like that Union Carbide did build for the government in the war effort. The biggest single thing perhaps was the nuclear energy program, where Union Carbide was the biggest factor in helping design and in operating from the beginning the Oak Ridge Gaseous Diffusion Plant and making a worldwide survey of uranium ore, supplying most of the domestically produced uranium ore or a big part of it, and building about twelve other plants in this overall program. Other aspects, of course, were synthetic rubber where Union Carbide was also the biggest factor in many other plants.

ARENA: Just as a matter of curiosity and information, I am wondering if your experience once with that company was mainly one of administration, where your legal background was handy, or was the work mainly legal as well as administration, which by way of interest in the case of the President himself. As you know, he has been in politics most of his life but with a legal background. I am just wondering if there is any similarity in that sense?

RUSH: I really at this time was partly in law and partly in business. I remained in the law department and practiced law and was manager of the law department. At the same

time I was made a vice president of some of the subsidiaries and supervised really the entire nuclear energy program as well as negotiating the contracts from 1944 on. I was the liaison between the president of the corporation and the largest group, the chemicals and plastics group. So that I was really in both. I then in 1949--well in 1945 I went on the General Operating Committee, which was the primary management committee of the corporation. In 1949 I became vice president of the corporation and in 1954 I left the law completely in order to take charge of all of the operations outside of the United States. Then I was elected a director in 1958, executive vice president in 1961 and president of the corporation in 1966.

I was also a director of Bankers Trust Company and American Sugar Company and various other corporations, and of course on the boards of various civic and religious and educational and other institutions. I wrote in this period various articles which were published both abroad and at home, having to do with the law, with economic matters, with management and things of that type.

The President asked me in May of 1969 to be Ambassador to Germany and I accepted. I became Ambassador to Germany in July and continued as Ambassador from July of '69 until February of '72, this year, when I became Deputy Secretary of Defense. The biggest thing that I had while I was in Germany was that I was the principal negotiator for this country of the four power quadripartite agreement on Berlin, which, of course, has been held up, pending the ratification of the Moscow agreement. In fact, we signed the final quadripartite agreement on Berlin. There is also a final quadripartite protocol, which brings it into effect. We have initialed that. But the Russians will not sign it until the Moscow agreement has been ratified. That has just been ratified and I will anticipate the final protocol will be signed in June, within about two of three weeks, and then the agreement will come into full force and effect.

ARENA: Thank you very much for bringing me up to date. I wonder if you would mind refreshing your mind as to the very first occasion when you met the President personally.

RUSH: Well, I went down to Duke early in September of 1936, and I think I met the President within a day or two.

ARENA: And what do you recall of that meeting, if it was more than just an ordinary meeting maybe of teacher and student? Does anything come to mind?

RUSH: Well, as I remember it, he was in the halls with another young man called [William R.] Bill Perdue. And I stopped in the hall and had a chat with them. We introduced ourselves to each other.

ARENA: Could I say that in my interviewing several students who belonged to that era, they have all commented on the close relationship between the students and the faculty, and I have heard that, you might say, from a student's point of view, and I wonder about your own recollections of that and especially whatever you recall about your close relations with one student named Richard Nixon.

RUSH: Well, when I became Assistant Professor of Law at Duke I was only twenty-six years old, so that I was not very far removed in age from the student. The net result of it was . . .

ARENA: Excuse me, I believe also you were a bachelor. You were going to get married when you left, so that gave you something else in common with the majority of the students.

RUSH: Yes, I was a bachelor. I had a lot of time on my hands, and of course the fact that I was engaged curtailed my going out with other young ladies somewhat, so that I had even more time than I would have had. As a result of this, I saw a lot of the students and the faculty, which was a young faculty, and became pretty well acquainted with all of the students and all of the faculty. The student body was small. The senior class was relatively small. In fact, I think there were only about 120 students in the school, something like that. Duke was building up its faculty. [H. Claude] Claude Horack was a very fine dean and brought into the school extraordinarily able men like Lon Fuller and [David F.] Dave Cavers from Harvard [University]. It was a fine faculty. I knew them all socially as well as in school, and I spent many evenings with the students, and ate with many of them and that sort of thing, so that I became quite well acquainted with them.

ARENA: I wonder if you had an opportunity to come into contact with other such administrative leaders of Duke University in general. I am thinking in particular of the head of the School of Religion at that time who I believe was Dr. Elbert Russell, who I also believe was a Quaker, as was the President himself. I have not yet met any of the students who have a clear recollection of him. I wonder if you as a faculty member did, and in particular if you were aware that he and the President did have the opportunity to get together personally. Some day I hope to ask that of the President personally, but in the meantime I have to go around the back door like this.

RUSH: I do not have a clear recollection of Dr. Russell. We in the law school were somewhat ingrown. While we knew each other very well, we didn't know the faculties of

other schools at Duke very well, or at least I didn't. And in fact, socially it was largely a case of the faculty of the law school seeing each other socially. This is not unusual in a rather large university. I did have some other friends in the academic part of the university and I saw them some and I had friends in the medical school, but in general the law school was rather ingrown, I would say, from that standpoint.

ARENA: Through discussions with Mr. Benjamin S. Horack, I noted that it was possible for the students to actually come to the homes of some of the faculty members. In your case, your bachelor quarters might not have provided such opportunities, but did you have the opportunity to have students in your own quarters?

RUSH: Oh, yes. I had a nice apartment there and I had students in my quarters very often.

ARENA: And did they take advantage of that as well as feeling free to come to your own office, and do you think that was a real distinguishing characteristic of that educational experience, in addition to the formal knowledge of law that the students would get in the classroom?

RUSH: Well, they did take advantage of it because I had then much more time than I have had since in many ways, and while we were busy, a big part of our work and the most interesting part in many ways was being free to see the students almost any time. We had an open door policy, so to speak, and in my case this applied also to my apartment because I wasn't married and I wasn't looking for privacy in my home life.

ARENA: Did the faculty in any way have to carry on, we'll say, as chaperones for students of that age for any of the social affairs? I'm thinking in particular if you witnessed the President at a social affair, a dance, or anything like that?

RUSH: Actually the law students were old enough that they didn't need chaperones, and if we saw each other at social affairs it was because we went as equals to the social affairs.

ARENA: Getting to a more serious side of the law school days of the President, do you recall specifically having him as a student in your class and his performance?

RUSH: He did not take, unfortunately for me, either my Corporation Law course or my Public Utility course.

ARENA: I am wondering, does that mean he did not take it at all or just that he did not take it under you?

RUSH: I was the only teacher of those two subjects, so that he did not take it evidently at all, because they were largely senior courses. But when I taught some other subjects such as Constitutional Law for a professor who might be away and we would exchange teaching each other's subjects, then he was in my class, when I was in essence a visiting teacher to the other classes.

ARENA: So, possibly you didn't have the opportunity to have him as a total student where you would grade him as well. You would just give some guest lectures and grade him on that part-time basis.

RUSH: That's right.

ARENA: Even though it was that limited, and maybe through your having read his Law Review article or whatever contact you had with him in a formal academic way, what would you say as a faculty member of this law student in those days?

RUSH: He was obviously a very superior student, a very superior young man. He was a man of very deep character, very high principles. Always has been. And I suppose both he and I would be labeled as "squares" today in this adherence to our concepts of behavior and our devotion to what we considered the fine principles of life. He was a very brilliant student. I think he was second in the class--second or third in the class. Bill Perdue headed the class I remember and the President was either second or third. He and [Harlan F.] Bill Leathers and Bill Perdue were the three leaders in the class. Incidentally, [Charles S.] Rhyne did not graduate in the class, as you know, so he was not in that competition. But those three were the outstanding students in the class, and the President was from the standpoint of public speaking obviously superior to anyone in the class. He was very popular but not in a glad hand way, really. He was more on the quiet side, but very well liked and very popular.

ARENA: Would the faculty have had any function in the election of the student government, even in the capacity of having a single faculty member as an advisor, where he was elected president, I believe, of the . . .

RUSH: He was elected president of the school--the student body. The faculty, as I remember, would not have had any part in that at all.

ARENA: I wanted to establish--for example, you were not the faculty advisor, if there was such a person for the student government?

RUSH: No, although all of the faculty, of course, were available to the--all of the student government for that matter--and, of course we were also available for the Law Review, and we would work with them on that, and I worked with the President some on that.

ARENA: I have gotten the impression through my interviews with so many of the students--and I don't think it was mere personal bragging--that that was an unusual era, that that was an unusual class, unusual times, the newness of the law school, the attempt to have quality professors coming from all over the country, top students, and as I say, I have heard this from the students themselves. Would you want to comment on that yourself, especially in view of your mature experience and experience since then?

RUSH: Yes, I would like to comment on that. I, of course, had only been out of law school myself four years and I had become acquainted at Yale with a student body that was highly selective and that considered itself the best in the country because of this high selective factor. Harvard would take in a very large class and then would flunk out very substantial numbers of them. Yale would select one hundred students for the entering class and they would select them from about five hundred applicants or more. I was approached as to whether I would like to be an instructor at Yale when I was in my senior year, but I had accepted the position in New York and decided to go there. But I was interested in teaching and was, of course, well acquainted with the quality of the class at Yale.

At Duke, which was my basis for comparison, you had a young school with a young faculty that was being built up and had been built up with extraordinarily able men. They had a very, very able faculty. Unfortunately, many of them like Dave Cavers and Lon Fuller left a few years later, but they were attracting very able men. They were paying salaries that were, if anything, as high as Yale and Harvard, if not higher. And they had all the impetus of a young school in the South where there were no great law schools, and I think Duke, without a doubt, at that time was the leading law school in the South, although you had [University of] Virginia and others that were older and had a better reputation.

ARENA: Excuse me for putting in a plug. My alma mater for a master's was Tulane [University]. Was the Tulane Law School in existence at that time?

RUSH: Yes. Tulane was in existence, practically all of the state universities and private universities had law schools, but none of them, I feel, had the faculty or

really the student body that Duke had. I found the young men at Duke--and I had graded papers at Yale some, in the freshman class as I would work with the professors--I found the quality of the work of the Duke class to be quite high, maybe not as high as Yale, but certainly the top of the class would rank with the top of the class almost anywhere. They were very good, the top three, four, five, six or seven, something of that sort. They were very good. In fact, this was still in the middle of the depression. The President decided to return to California, but two of the young men from Duke got jobs with some large law firms in New York, which as a rule took only Law Journal men, Law Review men, from Harvard, Yale, Columbia [University], [University of] Michigan, and a few schools like that. These two young men--one of them went with what was then Wright, Gordon & Franklin and another one went with, as I remember, Cravath, deGersdorf, Swaine & Wood, one of the largest, both of them leading firms. It was a great tribute to the school. I think it was the first time that any Duke Law School graduate had gotten a job with any large law firm in New York.

ARENA: As a matter of fact, in the recent interview with Mr. Leathers he mentioned that he and the President and one other person did go to New York seeking jobs, as well as seeking, in a way, the relief and change of going to a big city after the tension of the law exams and the end of their law school days. I was wondering if you had any personal knowledge or if you were approached for writing a letter of recommendation for the President at this time?

RUSH: In the case of both Mr. Leathers and Mr. Perdue who decided to go to New York, I did write letters for them. As I remember I did write some letters for the President, but he decided he wanted to go to California and he didn't go to New York.

ARENA: Excuse me. He went to New York to seek a position, but he did get his position in California.

RUSH: Yes. He decided to return to California. But he, Perdue and Leathers all went to New York and Perdue and Leathers got positions and stayed. I don't think--I don't know whether the President was offered one or not, but he elected to go to California anyway.

ARENA: On the question of letters and to serve the interests of the professional historian, would you search your mind for a moment to see if you know if you have any correspondence or any letters dealing with this period in particular, or any period, direct contact between you and the President and the location of such correspondence for the purpose of the future researcher.

RUSH: One thing that I regret very much is that I have not kept papers back through that period.

ARENA: You, like others I have asked that question to--those who graded his history papers, for example, say if they knew he was going to be President it would have been different. I am sure you feel the same way.

RUSH: I do, indeed. I regret very much the fact that I didn't keep a diary back through those days, but I didn't.

ARENA: And to be sure, that was your only year of teaching?

RUSH: Yes.

ARENA: And looking back, you say you were very reluctant to give it up. You did enjoy it. And may I ask from the standpoint of knowing the nature of the men who taught the President, what was attractive about teaching?

RUSH: Well, for one thing, I have always been interested in writing and research, and I have been, as I say, editor of the Yale Law Journal. I was editor of the Tennessee Scribblers at the University of Tennessee. I liked writing and I meant to do quite a bit of research and writing in the legal field, and as a teacher I had time to do that. We only had to teach about five hours a week. As I remember it, I taught Corporation Law three days and Utilities two days. We taught one hour a day. Otherwise, you spent the time in concentrating on your studies and in writing. This appealed to me a great deal. The opportunity of having the summers free for research and for work in the legal field had a great deal of interest for me.

The fact that as a professor you could take time out to accept positions in government. I remember [Douglas B.] Doug Maggs took time out to be solicitor for the Department of Labor for two years, for example, so that you could get into many governmental activities in which I was interested, as a teacher. At Yale quite often, as you know, a professor at Yale would come down to Washington to be many things; in some cases Under Secretary of State, as in the case of [Eugene V.] Gene Rostow. Teaching seemed to me to open up a broad range of activity which I consider to be a very useful life, in legal research, in obtaining leaves of absence and accepting positions in government and in working part-time on many other things.

ARENA: If it isn't too personal, this characteristic of service to others, essentially I think is one of the main points you are making here. Was that typical of the Duke faculty from your personal experience? Was this something that the President was in the midst of, either consciously or unconsciously? Was that an attitude you found in the faculty in general?

RUSH: Yes, I think that was the motivating factor for most of them coming into teaching, a strong motivating factor.

ARENA: You mention the idea of you and the President being "squares" and I don't want to take that out of context, other than to say that a square and non-square, for example, in history especially is a very relative thing. The liberal today is the conservative of tomorrow and all that, but such names as [Louis D.] Brandeis and [Benjamin N.] Cardozo were considered non-squares, if I'm not mistaken, around that time. But I got the impression from the students I've interviewed during that period that they were much the idols of the students. Was that true of the faculty, and why?

RUSH: Well, when I was using the term "square" I was thinking more in terms of personal behavior and belief in qualities of honesty and integrity and an unwillingness to deviate from the norm; for example, by wearing long hair or growing a moustache. That's what I was thinking about in terms of "square."

ARENA: I see.

RUSH: I wasn't thinking of "square" in the sense of being liberal or conservative. At the time the great heroes of mine, and of, I think, President Nixon, were people like Oliver Wendell Holmes, Justice Brandeis and Justice Cardozo-- the liberals, the ones who were in favor of social change and in getting away from the really reactionary opinions that were then prevalent on the Supreme Court.

ARENA: Would it be correct to say . . .

BEGIN SIDE II TAPE I

ARENA: To finish that question, from the standpoint of history and the study of courts and of law in the United States, I am thinking of the U.S. acceptance of the English common law. We say that the law changes with the times, especially social changes, we'll say, where the country is overwhelmingly agrarian, the laws will reflect that. Were people like Brandeis and Cardozo and [Felix] Frankfurter doing something not that radically new but something that was more or less, if it can be said, a routine revolution where the times had changed and the law had to catch up? Would you say that's what they represented, only they were very expressive and very keen in noting these changes in their decisions, but were not all that radical?

RUSH: They were certainly not radical in any sense. What they believed in was in the right of the legislature of a state or the Congress to enact social legislation and to meet the challenge of social, economic and other challenges of

the times. The Supreme Court of that day was continually holding unconstitutional legislation enacted by the states or by the Federal government with regard to regulation of various parts of industry or public utilities, or such things; for example, as a New York State law providing that theatre tickets could only be marked up a certain amount was unconstitutional. Well, there is nothing in the Constitution which in any sense would forbid a thing like that, and it really was a case of trying to hamstring the attempt by government, state and federal to meet the social needs and economic needs of the times.

The Warren court is a very different court. Here was a case where the court decided, in my opinion, to leave the judicial side and to become a legislative side. They, through their opinions, started changing society the way they thought it should be changed, reversing opinions in the past and in essence making broad social and economic legislation, which is a very different thing from upholding the right of the Congress to pass that legislation or the legislative bodies. There was a great difference between liberalism represented by Cardozo, Frankfurter, Brandeis and Holmes and the liberalism represented by [Earl] Warren or [William O.] Douglas and to a degree [Hugo L.] Black.

ARENA: Mr. Rush, as this interview comes to a close--and I have taken more time than I should--is there any subject that you would like to raise or that I have not brought up by a question, or we have not mentioned so far?

RUSH: I'm not sure that there is. I think one can say this in evaluating the President's background and his education, the President has some very outstanding qualities which must have always existed. He has tremendous courage, the courage, for example, that he has shown by going into Cambodia, of going into Laos and of mining the harbors in North Vietnam, against the protest of those who are emotionally aroused. He is willing to face up to and make a decision. He tries to face problems and make decisions with regard to those problems.

ARENA: Do you mind if I ask you in view of your knowing him before politics and before having to make these weighty decisions, do you recall examples of that side of him, even though it was a very short time you knew him, but do you recall examples of such courage?

RUSH: Yes, it was when he was a student, he always tried to face up to problems, he didn't try to run away from them. He had the courage to face up to them, which is the same thing, in a way. And it was this willingness to face up to life and to make decisions with regard to the problems that arose, that has meant so much for him as he has gone through life. Another aspect of his qualities is he has continued to grow all through the years. That's probably as high a tribute

as you can pay anyone. The person who stops growing is never going to reach a very high stage of life development or going to be able to make a very great contribution. The President is still growing. One can see this through the years. He's grown in the Presidency. He will continue to grow.

ARENA: Thank you very much, Mr. Rush, for not only allowing me the hospitality of your surroundings here, but also for answering all of these questions so frankly and so fully, and I know my fellow historians join me in expressing this appreciation. Thank you very much.

RUSH: Well, I am very pleased to see you and if I can be of further help, please let me know. It's a very worthy project.

ARENA: Thank you.