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William Hunter McLean
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Place of Interview: Fort Worth, Texas

Interviewer: E. Dale Odom

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Oral History Collection

William Hunter McLean

Interviewer: Dr. E. Dale Odom

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Dr. Odom: This is E. Dale Odom on May 24, 1968, in an interview with Mr. William Hunter McLean in his office in the Fort Worth Club Building in Fort Worth, Texas. Mr. McLean, to begin with I thought it would be well for this record if you would give us just a brief biography of your...of yourself--where you were born, grew up, your education, and a sort of sketch of your career or positions you've held, and so on.

Mr. McLean: Well, I was born October 1, 1909, in Fort Worth and have lived here as a base most of my life, though I've been away for extended periods--from 1933 to 1943 with the State Insurance Department as an examiner and during World War II. Since World War II, I have been here most of the time, maintained a home here all of the time and absent only during my service on the State Board of Insurance as its chairman from February, 1963, until I resigned the position at the end of February, 1968.

My parents were Dr. John Howell McLean, a physician and surgeon; my mother was Anita Hunter. I come of Scotch ancestry from both sides of the family and come by some political interests quite

naturally. My grandfather, William Pinckney McLean, was a member of the Constitutional Convention of the State of Texas at which time our present state constitution was drafted. He also was appointed a member of the first Railroad Commission of Texas by Governor Hogg. He was a lawyer and a judge, lived most of his life in Titus County, Mr. Pleasant, Texas, raised his family to at least teen-age in that locality and moved to Fort Worth in 1893. He is rumored to have been the longest surviving member of the State Constitutional Convention [of 1876]. He lived to be 89, died in 1925.

He also served in the Texas Legislature and the U.S. Congress. He was a member of the Confederate Army, and his people were pioneers in the East Texas area. He was friendly and kept in touch with politics all of his life. My father, although a hard-working doctor, did the same.

Though I have never been elected to any office nor have I ever run for office, I have been interested in politics and have been active particularly in behalf of Lyndon Johnson. As I was saying, we have been a family of political interests. Mine have been particularly active in behalf of Lyndon Johnson, in whose interests I've been active since 1941 and have handled his campaigns here in Tarrant County on numerous occasions. In 1964 I was state chairman of the statewide Johnson-Humphrey campaign in Texas.

As to my education, I was educated in the public schools here in Fort Worth, entered VMI for less than a year. They had a polio epidemic during my freshman year there and I left at that time. Resumed my studies at TCU and finished two years of college and went to work. I don't have a college degree, to my regret. I have been in the insurance business in one part or the other of it all of my adult business life.

Odom: Might I interject one question here? What...can you look back and recall what motivated you to enter the insurance field?

McLean: No, I don't clearly remember. In the late 1920's when I did enter the insurance field, the economy of the country was booming. A person could make a good living at almost any job or profession, and the securities business at that time seemed a very desirable and intriguing opportunity for young men, as it is today. It soon changed spectacularly, but at that moment in time it was attractive. And I was interested in the securities business but never did get started in it.

I was offered a job with the George Beggs Insurance Agency here and took it. Later, I went with the agency known at that time as Mitchell, Gartner, and Walton, which since has changed its name to Mitchell, Gartner, and Thompson, still in operation here in Fort Worth, and left them to go with the State Board of Insurance in 1933.

In 1946 after returning from World War II--I served in the Marine

Corps--I was able to buy a small, mutual assessment, life, accident, and health insurance company, and converted it to a legal reserve life insurance company. The name was the American Standard Life Insurance Company based here in Fort Worth. As a running mate to that company we later organized Independence Insurance Company, another legal reserve life company. And I operated as chief executive officer of one or both of those companies from 1946 until November, 1961, when all of my interest was sold.

Within a matter of thirty days I'd had requests from John B. Connally, then Secretary of the Navy, to help him in his coming governor's campaign, and so by January of '62, less than sixty days after selling my insurance company, I was active in his campaign for Governor of Texas and stayed active in it until after the general election in November, 1962.

Odom: Could I ask you, Mr. McLean, did you sell your insurance interest in order to do this, or did this come from a different reason?

McLean: No, I had formed the conclusion that the development of a large life insurance company entailed a good deal of capital risk. My entire fortune, modest as it was, was tied up in this company. I felt that my family obligations were such, to the children needing education and in college at that time, and to my family...that it was a risk that I didn't need to take, and that I had better liquidate this single large holding as a precaution for the welfare of the entire family. And besides it was my judgement that it was good business then.

Life company stocks were selling at a pretty high price. They later went higher. In 1964 they crested. But since then they have declined markedly. So I was a little ahead of the crest, but it...in any event that also concerned me. That the price of the companies, for the books of business that they had, were inflated, and...and that I could hardly do better with my money than to sell.

Odom: You were about to say about the year 1962...you were up to 1962 when I interrupted you.

McLean: Well, in 1962 Governor Connally announced for governor. His home at that time was in Fort Worth. I had been friendly with him for many years--an admirer of his, a respecter of his ability and judgment. And he needed help in his campaign quarters, and I was available so I pitched in and worked in the state headquarters here in Fort Worth until the Democratic primary had been concluded with him as its nominee. I then moved to Austin where the state headquarters operated for the general election, which occurred early in November of 1962. We had two or three weeks of cleanup work after that so it was almost December 1st before I got back to Fort Worth.

During his campaign, I had urged Mr. Connally to seek a man of a technical insurance background for his appointment to the Board. Normally these appointments have gone to attorneys, and though they are needed on the Board and contribute much to its successful operation the insurance business has become more and more complex,

more and more difficult to administer. There was more and more going on before the Board than ever before, and people that have no insurance background are seriously handicapped in dealing with matters intelligently and promptly. So this was my concern and my advice to him as he toured the state in his campaign: to try to find someone with this insurance background.

It was after the campaign was over, sometime in January of '63, that I received a phone call from him. He told me that he had not found a person of the technical experience that he felt was needed for the State Board of Insurance and inquired if I would be interested in the position.

I had had no intimation that he would offer the appointment to me. I certainly had expressed no interest in it. It just simply hadn't occurred to me that I would be called upon to fill the job, but I was delighted, after thinking it over and talking it over with my family, to accept the appointment.

I took office the first part of February, 1963, as Chairman of the Board. Judge Ned Price was a Board member at the time, and Mr. Durwood Manford was a Board member at the time. Each of them were reappointed during my term as Chairman, and they remain on the Board today. I was succeeded by Mr. George Cowden, a young attorney from Waco, who had served on the Texas House of Representatives Insurance Committee on two occasions and was known as one of the work-

ing members of the committee, and who also left a post as First Assistant Attorney General under Attorney General Crawford Martin to succeed me as chairman of the State Board of Insurance.

Odom: Does the Board have anyone on it now with an insurance background? I mean in actual...actually the insurance business?

McLean: None of the three members have been identified, and their livelihood have not been identified with the insurance business. However, Judge Price has now served on the Board...

Odom: About ten years, hasn't he?

McLean: ...some...some good while. I forget when he was appointed initially, but I believe 1958 or somewhere about that time. Mr. Manford was appointed in late '61 or early '62. So the combined experience of those men now is some sixteen, seventeen, or eighteen years; and with Mr. Cowden's experience with insurance in the legislature two sessions and as a practicing attorney representing a small company in Waco, I think they've pretty well got the background they need.

Odom: Now as we were talking about before we started, I wonder if it would be too much to ask you to give a brief survey of the basic insurance regulatory laws. I believe that you had it separated, as you say, here and just handle it any way you think would be best for...for the record on that. I know it's a big order.

McLean: Well, I made some notes in this connection and found that it was wise to separate the two main functions of the Insurance Department of Texas. One, its general regulatory authority as it developed over the years, which is analogous to the authority in other states

and, two, its rate-making authority. In the first part of this I will address myself to the general regulation of insurance in Texas, and in the second section the rate-making authority of the state.

The first appearance of a regulatory law of which I have knowledge was in 1874 at which time the Legislature of Texas enacted regulations for life and health insurance companies, associations, partnerships, or individuals, "doing life and health insurance business in the state." The laws didn't relate to fire insurance companies as is obvious.

In all these early laws the demands made by the laws upon the companies for financial disclosure were pretty slight. The company might have to submit only a balance sheet prepared on, say, an 8 1/2 by 11 piece of paper, which was dutifully filed. The commissioner was given the authority to examine companies in person or through his nominee, and it was the custom for many years for the commissioner himself to drift about the state and call at the home offices of the company. Financial requirements were meager. Now this was just an introduction, really, to the regulation of insurance.

One of the interesting things we ran across during my term on the Board in attempting to draft some new legislation involving unlicensed insurers was the fact that the word "insurance" had never been defined in the Insurance Code of Texas. This is a handicap

of some proportions in drafting subsequent legislation. This is not, I'm sure, a casual oversight. The definition of insurance is a difficult one. You have bail bonds that can be executed in Texas by most anyone. Other kinds of bonds that an individual or corporation might be able to issue for day-to-day purposes in the conduct of their business. You have hold-harmless agreements, service warranties, indemnification agreements that are in very common usage in the world, but which are not insurance as we conceive of it from the standpoint of the insurance industry and the insurance buying public. Some states have defined the word, and invariably it rubs some rough spots in the normal conduct of business between corporations and individuals not engaged in the insurance business. But it is a very difficult problem in Texas now to draft any legislation because of this omission in our statutes. And I might add that with all the statutes that have been added over the years in which this problem has been skirted and written around, it would take an almost complete overhaul of our Insurance Code if somebody were now at this late date to define the word "insurance."

So with that meager start in 1874 there came about regulation of insurance in Texas. In 1875 the legislature adopted measures regulating fire and marine insurance companies. Much of this latter act is still on the books. In both the 1874 and 1875 acts supervision was vested in the State Comptroller of Public Accounts in addition to his other duties.

In 1876 the present state constitution was adopted containing provisions for an office of Insurance Commissioner. In the same year the legislature created a special new department called Department of Insurance, Statistics, and History. The new department was headed by a commissioner, and the comptroller was relieved of his insurance duties.

It was 1905 when another major change occurred. The first state banking act was passed in that year, and it's interesting to note that insurance regulation in Texas preceded banking regulation. With other duties previously added, the Insurance Department was now designated "Office of the Commission of Agriculture, Banking, Insurance, Statistics, and History" with the commissioner additionally to serve as a member of the Board of Directors at A&M College.

In 1907 the agricultural duties of the commissioner were assigned to a new and separate office, and the name of the Department of Insurance was shortened to "Department of Insurance and Banking." Thereafter the functions related to statistics and history were absorbed over the years by the state librarian.

In 1923 the functions of insurance and banking were separated with insurance assigned to the Department of Insurance headed by a Commissioner of Insurance. Banking went its own separate way.

In 1927 there was created the Board of Insurance Commissioners con-

sisting of a Life Insurance Commissioner as ex officio chairman, a Fire Insurance Commissioner and a Casualty Insurance Commissioner-- Each of them primarily supervised his particular field but acted officially with the other commissioners as board members.

A State Insurance Board, as distinguished from these other titles I've given you, had existed since 1910 under one name or another as a fire and allied lines insurance and workmen's compensation insurance rating body. Its functions were merged into the Board of Insurance Commissioners in 1927, but we shall talk more about rating and its supervision later.

In 1957 there was created the State Board of Insurance of three members vested with all the authority and duties of the former three commissioners and charged to act as a body, with the executive and administrative function vested in a Commissioner of Insurance as chief executive and administrative officer of the Board. A board member is appointed by the governor each two years to serve a term of six years. Appointees are subject to confirmation by the Texas Senate; the governor designates the board chairman. The Commissioner of Insurance is appointed by and serves at the pleasure of the State Board of Insurance. Any action of the Commissioner is appealable to the Board, and Board action is appealable to the courts. Very generally the Board determines departmental policy and rules and has primary jurisdiction over property-casualty insurance premium rates and policy forms. The Commissioner has pri-

mary jurisdiction over company examination and licensing, agency supervision and licensing, life and accident and health policy forms, and other areas customary to state insurance commissioners generally, such as tax collections, etc.

The department at this time has a staff of about four hundred persons, which is almost evenly divided. There are some two hundred persons engaged in property-casualty rate making and related duties, while the others are examiners, life insurance actuaries, agency supervisors, and so on as in other state insurance departments.

In 1939 a division for liquidation of insolvent insurance companies was created by the legislature within the Insurance Department. It functions under and is staffed by the Commissioner of Insurance. This was a rather important step. Many small companies in Texas and elsewhere had failed during the depression. It was the custom prior to that, for the courts in Travis County to appoint a receiver, usually an attorney, upon the recommendation of the Attorney General of Texas. These men had no revolving funds or trained staff with which to handle their receiverships. It was often difficult for them to get started, and much waste and loss occurred. Aware of this, the legislature in 1939 made the Commissioner, or his nominee, the liquidator for insurance companies and now upon receivership action the courts in Austin appoint the insurance liquidator as receiver.

The 1957 laws, restructuring the Department of Insurance, remain in effect to this time in 1968.

Odom: If you would also, Mr. McLean, give us a brief, general survey of the rate making functions as they developed over the years, and as they generally presently exist. So it's a big order, too.

McLean: Texas is unique among the states in insurance rate making. It makes and promulgates rates for fire and allied lines insurance, workmen's compensation insurance, automobile insurance, and title insurance. Emphasis should be given to the word "promulgates" there because these are not filed rates. These are rates that are developed by the state with its own staff of some two hundred persons from statistical data related to losses paid in the past. General casualty rates result from board-approved filings by an insurer; but once such a filing is approved, it becomes uniformly applicable as the rate throughout the state. Policy forms for rate promulgated and casualty lines are also uniform as to language and coverage.

It was in 1909 that our first rating law was adopted. In the decade preceding 1909 new and smaller companies anxious to grow began to cut fire insurance rates under the "Hartford Tariff," the prevailing rate standard of the times. Some rates were quoted as low as twenty-five cents to fifty cents per hundred of insurance in those days--days of horse-drawn fire fighting equipment, meager water distribution, and water pressures, wood and coal stoves and fire places, and generalized frame construction. The older com-

panies responded by cutting rates, too. The competition continued until rates almost reached the vanishing point and precipitated what is known as the "San Antonio Rate War" when non-cancellable policies covering fire insurance were offered for five-year terms at rates of twenty cents per hundred per year. That such folly threatened the financial stability of the companies was first emphasized by the Baltimore fire, and demonstrated later, most forcefully, by the San Francisco holocaust. Hundreds of companies went bankrupt.

So it came about that the Texas Legislature in 1909, created the State Fire Rating Board. That act became effective January first, 1910, and required rate filings from companies. Schedules filed could only be amended after thirty days notice to the rating board and the board had power to direct higher or lower rates in the schedules. The rating board, subsequently titled State Fire Insurance Commission, existed until 1927 when, as mentioned earlier, it was merged into the Board of Insurance Commissioners. The rating board was composed of the Commissioner of Insurance and Banking as chairman, and two other part-time members appointed by the governor. It operated independently of the Department of Insurance until 1927.

Another land mark date is the year 1913. In that year, the 1909 Fire Rating Act was revised giving to the state the right, authority, and duty to fix and control fire insurance premiums, rates, and

policy forms, and certain other related matters. Thus, the promulgation of fire rates and prescribing of policy forms became a state function. It's interesting to note that it took only four years... really three years--from 1910 to 1913--to find that competition, unfair and perhaps monopolistic practices, had so developed that the state had to go completely into rating and policy form promulgation, regulation and supervision.

In 1923, promulgation of workmen's compensation rates was taken from the Texas Employers Insurance Association and transferred to the State Fire Insurance Commission. Our Workmen's Comp Act was passed in 1913, and in it was created the Texas Employers Insurance Association as a sort of a quasi and pseudo state fund to care for workmen's compensation insurance not available in the voluntary market. But by 1923, complaints from policy holders about rates had created such a political atmosphere that the promulgation of workmen's compensation rates was passed by statute to the State Fire Insurance Commission. And those rates, of course, are applicable to all companies writing workmen's compensation insurance.

In 1927, the legislature passed our present automobile insurance rating and uniform policy laws. The law has been changed only slightly to this date.

1927, again, was also the year in which was created the Board of Insurance Commissioners by merger of the Department of Insurance

and State Fire Insurance Commission, with the former succeeding to all rate-making authority of the latter.

In 1929, title insurance companies and the promulgation of title insurance rates and policy forms were placed under the jurisdiction and supervision of the Department of Insurance.

In 1945, following a landmark U. S. Supreme Court case, the legislature required uniform policy forms and rates for general casualty lines and marine insurance--but by means of a policy filing procedure, rather than by promulgation.

That is a capsule history of the rate-making laws of Texas up to this time, Dr. Odom.

Odom: Would you just briefly explain the difference between...between what you mean by promulgation and filing...rate filing as a means... I assume that's a means of determining what the rates are going to be?

McLean: Yes, sir. A promulgated rate is one that is developed by the State Board of Insurance from statistical data it demands of the insurance companies, and is then announced as a rate that will be applicable to the various classes of insurance involved.

A filing is a rate brought to the Board either by a bureau of companies or by an individual company. And there are some five or six hundred such companies eligible to make these filings so the first

one there with a filing that has reasonable and adequate rates-- rates that are not excessive--and coverage that is desirable, sometimes has the advantage over the stragglers. But in any event, in the general casualty lines and the marine lines, the rates are altered from time to time based on statistical data which is certified to the Board by the companies, rather than gathered by the Board. The Board and its staff study the statistical submissions carefully to determine their validity and credibility. And once they're satisfied that the rate is reasonable to the public, not excessive to the public, yet adequate to the company, which are requirements of statute, the Board will approve that rate. And once it's approved for that particular line of coverage, it becomes a uniform rate. So in a sense, a filing, I guess, is a promulgation. We differentiate the two in the sense that in the promulgation case the entire responsibility is the Board's, the gathering of statistics and so on. In the other area, the responsibility is slightly divided; the companies and their bureaus have more responsibility than in a promulgation.

Odom: Do you ever hold public hearings on any of these matters, or is it all pretty well determined by whoever it is that has the power here to make the promulgated rate you were talking about?

McLean: Yes, over the years, commencing many, many years ago, the state on its own...I mean the Board of Insurance, on its own motion started holding public hearings. It's interesting that statutes don't require them. The statutes do permit and authorize and require Board hearings after the fact. That is, if a rate has been set by the

Board and there is some aggrieved citizen, he may petition the Board for a public hearing on his grievance; and if he's not satisfied with the decision he gets out of the Board, he can appeal to the courts. But public hearings prior to the promulgation of rates and prior to the acceptance of filed rates is a thing that has grown up as a result of the Board's own motion.

These hearings are held each year on fire and allied lines insurance, on automobile insurance, on workmen's compensation insurance, on longshoremen's compensation insurance, on crop hail insurance, as a regular function. And often times special hearings are called on the filed rates and other matters that involve the public interest and concern on rates. The preparation for one of these public hearings is about as follows: The Board accumulates its statistical data, combines it, summarizes it in a statistical exhibit, all as rapidly as possible, then circulates the exhibits a few days before the date of the hearing in the interest of efficiency. As soon as the statistical data is available the Board feels that it is compelled to move expeditiously in changing rates upward or downward, or however may be indicated.

The hearings are well attended. Customarily there are from three-fifty to five hundred at the fire hearings, a smaller number, as a rule, at the automobile hearings, but still several hundred people. These exhibits are studied in the preceding day or so of the hearing. The company bureaus have their own statistical sources and

they check them very readily. The risks are classified so that any citizen or individual insured can look into the exhibits and see what changes are being made in his rates. He's welcome to appear and inquire as to the reasons for the change; he's welcome to suggest items to go on the agenda for the hearing. These hearings are generally wide open, as I said at the start. There's just no legislative standards for advance public hearings because they were adopted on the Board's own motion.

Odom: Who characteristically testifies? Or do you have testimony at these...these hearings? I presume you do.

McLean: Yes, sir. It depends on how controversial a particular agenda matter item might be. Normally, the companies--through their bureaus or through their own attorneys--will ask for time to be heard at the hearings. Seeking rate adjustments, or reclassification of risks--these are refined all the time. Many years ago there were just a few automobile classifications, for example; and now there are about two hundred basic auto classifications--by territory, by use of the vehicle, by sex of the driver, by age of the driver, to name but a few in the personal, private, passenger car line. The commercial vehicle line is more highly refined. If you run out all the classifications in the automobile manual, including all endorsements, the number would exceed ten thousand.

In the fire lines the number of classifications exceeds half a million, because each change in construction of a building, each different material used that changes from one classification of degree

of flammability to another, can affect the rate of a commercial structure. The same is true of resistance to wind storm.

The Board will hear from building materials manufacturers wanting a more favorable classification for some roofing material, or siding material, or other material used in construction. These are tested by a Bureau of Standards for the flammability point; they are graded and rated in accordance with that standard and the results of those tests. Individuals will appear; representatives of organized labor will appear; agents will appear. And all are heard until the last one has spoken his piece at these hearings. And then the Board, in the succeeding days, refers to the testimony in the hearing, its notes taken during the hearing, the statistical exhibits, and concludes what action it will take for the ensuing rating period.

Odom: What...do you have any members of the legislature show up at these hearings representing any larger constituency?

McLean: Yes, it's rather commonplace for members of the legislature to be present at these hearings, and to be heard. The Board is never inundated with legislative presence, but it's commonplace for from two or three to maybe as many as ten senators or members of the House of Representatives to be present at these hearings.

Odom: Mr. McLean, where does this...the famous Robertson Law back in 1907 or 1909, where does it come into this matter? The law, you know, which required out-of-state insurance companies to invest, I believe it was three-fourths of their income from policies

in the State of Texas.

McLean: Well, we've got to go back to pioneer days again now, because...

Odom: (chuckle)

McLean: ...at that time, remember Texas was almost solely an agricultural state. It was rich in natural resources; it needed economic and industrial development and it didn't have the money to do it. The Robertson Law related only to life insurance companies and required, in brief, that seventy-five percent of the policy reserves under policies on the lives of Texas citizens be invested in Texas securities. And Texas securities were defined in the law to be mortgage loans on Texas real estate, Texas municipal bonds, stocks and bonds of Texas corporations, and, generally, investments that would localize the money in Texas for use by Texas in its growth.

This law was not readily passed by the legislature. It had been suggested at several sessions, and it was hard fought at every jump. And when it was passed, many of the big eastern life companies left Texas--withdrew--and remained out for many, many years. These included New York Life, Metropolitan Life, Equitable Life Assurance Society, Prudential Life, and countless others.

A few out-of-date companies, stayed in Texas. And those that did prospered.

The law, even in its early days, did not have the effect of

building Texas companies. Soon after its enactment American National of Galveston was organized; what was the forerunner of Southwestern Life in Dallas was organized; and a number of other companies across the state were organized, thinking a great advantage would inure to them, but this advantage didn't materialize as soon as people in the insurance business had thought it would. Enough eastern, or northern companies, or out-of-state companies stayed in Texas to provide ample markets for insurance, so even the Texas companies found pretty hard competition.

As Texas did develop, its oil fields were discovered and developed, its sulfur deposits mined, and its other natural resources explored, as its highways were built, and as its harbors and ports were improved, venture capital came into Texas without the need of compulsion. And for twenty-odd years or thirty years efforts were made to repeal the Robertson Law without much success until three or four years ago...five years ago when it was finally repealed.

Many of the out-of-state companies that withdrew from Texas came back, even under the Robertson Law, in the period from the late thirties through the 1940's.

Odom: That's when most of them did come back into Texas that had withdrawn, or had pulled out?

McLean: Yes...yes, sir. They came back before the law was repealed-- most of them.

Odom: So today, then, there are no...there is no legislation...no statutes requiring any such investment.

McLean: No, sir.

Odom: Mr. McLean, you started as an examiner in the Insurance Department in 1933. What does an examiner do? What did you do? What were your duties there? Did you remain an examiner during the period you were with them there--up until '41, or whenever it was?

McLean: I actually went with the department as Deputy Life Insurance Commissioner. This was during the time that they had the three commissioners--Life Commissioner, Fire Commissioner, and Casualty Commissioner--that operated a little bit independently of one another. But the Life Commissioner was also charged with the responsibility of licensing and examining insurance companies--all kinds of companies. The Depression was on and the state had to cut expenses, and all the departments were charged with the responsibility of cutting appropriations. And so the job of Deputy Life Insurance Commissioner was eliminated from the appropriation act, and I moved into an examiner's position traveling to the home offices of the insurance companies to examine them.

The examination divisions of the various state insurance departments perform the same functions as are performed by the state bank examiners and federal bank examiners in banks and savings and loan institutions. They go to the home offices of the companies, physically count their securities, value their securities, value their liabilities to their policy holders and their business

liabilities, establish their loss reserves and unearned premium reserves, prepare a rather voluminous written report--including a revised balance sheet, revised examiner's estimates of the company's worth, pointing up law violations, if any, by the company and its officers, agents, and other personnel. They review claim payments to see that the company is not taking advantage of its policy holders in any respect. They are-- in a word, they must be as knowledgeable about securities as bank and savings and loan examiners--perhaps a little more knowledgeable, for they have equity securities to value whereas the former do not. And in addition, they must know the insurance business intimately for there are many insurance business assets and liabilities that require technical knowledge to be properly evaluated for examination purposes--statement purposes. Insurance examiners are, to my notion, more experienced, more broadly experienced than are bank examiners or savings and loan examiners for those reasons.

I had not intended to stay with this department at the time I went there--1933--for but five or six years, it having been my intention to organize a company. But Munich occurred in 1938, and it was obvious that war was on the horizon. And by 1939, it had occurred and I was of an age that looked surely would have to go into the military service. So rather than venture into a business that I might have to leave, I stayed with the state longer than I had anticipated until I went into the Marine

Corps the first part of 1944.

Odom: Mr. McLean, the functions here of an examiner...insurance examiner, as you describe them, it sounds like there's the possibility that he might occasionally be offered blandishments or financial remunerations or things of this sort by companies. They're certainly in a position to have a good deal of influence over their affairs. Is...do you know of...personally of any kind of attempts to bribe or...I guess that's the thing you would call it, I guess, wouldn't it? I doubt if there are any open-- many open offers of that sort, but what generally is the situation in this regard?

McLean: Well, the cross-checks on that type of a thing are several, and they consist of the fact that the companies have to file their own sworn annual statement. These are checked in the department by supervising examining personnel and company licensing personnel so the field examiners aren't the only people that know something about the company's condition. That's one problem. If a field examiner came up with a result in his examination report that didn't square or reconcile with something in the annual statement or couldn't fully explained, he would be in serious trouble with his supervision.

The second thing is that through the National Association of Insurance Commissioners there is what is known as convention examinations. These being examinations in which examiners from other states participate in the examinations of domestic companies.

Texas, for example, keeps as many as eleven men out of state all the time examining companies in all of the 50 states, with examiners from other states. It might appear that 50 examiners could show up on some company. This is avoided by a zone system in the National Association Insurance Commissioners...roughly eight states to a zone and there are six zones. The home state will provide most of the examiners on a job, and a company doing business nationwide will have each zone represented. Texas is in Zone #5 with Oklahoma, New Mexico, Kansas, Colorado, and so on, up towards the Canadian Border, and these states rotate the examiners that examine companies. For example, if Texas represented Zone 5 on the last examination of some national company based in New York, it won't reappear on that examination for many years. So, your checks and balances on examiner misconduct are many.

The opportunities for an examiner to do something wrong as a result of a bribe are very limited. In the first place, I examined for eleven years and the biggest...the only bribe I was offered, and it was of in consequence, was a case of whiskey. (chuckle) And, no company so much as tendered me a cash bribe or suggested that I subvert anything. Many of them were furious with me for the types of reports I wrote and for the disclosure I made in them, but that was a contrary reaction to that you make. There's not much substance to bribery or the opportunity for it.

Odom: I thought I would ask you the question anyway about if there

were any problems there. I wonder if you might, with your knowledge, at least, of insurance companies in Texas and probably generally...before I ask you that question, do you happen to know whether...wasn't Texas unique in this Robertson Law business?

This requirement...

McLean: Yes, Texas was unique. Other states considered it, as a matter of fact Arkansas considered it as recently as the last few years, but it did not pass. I believe Texas was the only state that had a Robertson type law.

Odom: I don't know of any others. What I started to ask, would you sort of briefly and generally can describe the impact of the 1930's depression on insurance companies. How did it affect them in a general way?

McLean: Well, it was...it was a harrowing experience. In the life insurance field, for example, policy loans skyrocketed at a time when the companies could not liquidate their investments at their costs. They then issued U.S. Liberty Bonds, issued in World War I with a high coupon rate of 4...4 and a fraction per cent, sold as low as 80. Good municipal bonds were selling 20 and 30 points off of their cost. I've seen industrial bonds, I remember one particularly, with a 5% coupon that were not in default and subsequently never did default that sold as low as \$25. The purchaser of those bonds would have gotten an interest, an effective interest rate of just 20% plus his capital gain... I don't know what that would have amounted to in yield. So, they were forced to liquidate these holdings to meet policy holder

demands, and they couldn't liquidate much without rendering the company wholly insolvent.

In addition, they had money in mortgage loans. There was absolutely no market for them. You couldn't give them to anybody hardly because people were defaulting on their mortgage payments. And the companies would be confronted with having to foreclose and hold a piece of real estate or just leave it as a mortgage and hope that the owner of the property would come on better days and pick up his notes. So the cash flow in insurance...in the life companies, dropped almost to the vanishing point at a time when the demands on it for cash were unusual. A moratorium was passed in all of the state legislatures, as far as I know, all of them, giving the company six months in which to respond to demands from life policy-holders for policy loans. The supervisors and regulators and state insurance departments all took a very sympathetic view about valuation of securities as long as the security was of a fine, taxpaying district, as long as it was by a fine, reputable, credible, national concern. They admitted them in the statement at the company's cost rather than its market value. And in this means most of your life companies pulled through.

In the case of fire and casualty companies, the results were a bit different. The demands for cash on them--the new demands of cash on them--came through inflated losses. People burned their

homes to collect insurance, burned their businesses. An interesting piece of evidence of this exists in Texas. We were promulgating rates on fire insurance at that time, so we knew how many fires were happening on state dwellings. The Homeowner's Loan Corporation was created by the federal government to help homeowners out who couldn't pay their loans, and in the 3 years preceding the operation of Homeowner's Loan Corporation, dwelling fires were two or three times as many as they had been...in amount...as they had been during the good times in the late '20's. As soon as Homeowners Loan Corporation was organized the number of dwelling fires dropped two-thirds.

But again they--the fire and casualty companies--had trouble with security valuation problems of a worse type than the life companies did. The life companies limited their investments pretty much to dollar investments, bonds, and mortgages and so forth. But your fire and casualty companies had been investing a little more heavily in equity securities, not as heavy as they do today but still more heavily at that time than life companies. And, of course, the bottom just dropped out of the stock market. They were badly hurt. Many fire and casualty companies went into receivership during the depression, small ones and one or two large ones--several large ones as a matter of fact. A few were rescued by the Reconstruction Finance Corporation, but fire and casualty companies were the main tragedies of the depression.

Odom: A great many more of those failed than did the life insurance

companies then?

McLean: Yes.

Odom: Was there probably more effort to rescue life companies than there were the fire and casualty companies?

McLean: There wasn't much the regulatory authorities could do for the fire and casualty companies. The losses they suffered were pretty much liquidated demands. They couldn't control--the regulatory authorities couldn't control the in losses. Nobody could except the policy holders themselves. But in the case of policy loan demands on the life companies, this could be controlled and was.

Odom: In an ordinary case, the insurance companies are legally required to make these policy loans.

McLean: Yes, sir.

Odom: And so a moratorium would have to be declared.

McLean: Their policy contracts define the terms--many of them now put a provision and have since the depression, a provision in their policy contracts that the company may defer the making of the loan for as long as six months. And this is follow-up on the depression moratorium type of thing.

Odom: Then how did...how were insurance companies affected generally by...different kinds of insurance companies affected generally, by World War II? You stayed in the Insurance Department, I believe, until about 1944. Did I understand you correctly on that?

McLean: Yes, sir.

Odom: Could you describe that a bit?

McLean: The industrial activity in this country--building of army camps, building of plants--stimulated all of our economy and, of course, in the property casualty insurance field as well as life insurance. But your chief beneficiaries of World War II in the insurance industry were your property casualty companies. Workers were paid high wages, generous overtime and extra time help. They were needed at work...they were working three shifts a day in nearly all activities, even the construction industry. Premiums were more than adequate really for this type of thing because they were based on depression experience. And the companies... fire and casualty companies made very generous profits. Few of them got to keep them because they passed an excess profits tax on top of the normal and higher income tax. So the fire and casualty companies had...had a minor bonanza from World War II which was welcome to them after their harrowing experiences of the depression.

The life companies benefitted to the extent that there was more money in circulation and more need for insurance. But again as distinguished from the fire and casualty companies they were hurt by the need for low interest rates...of the government's need for low interest rates to finance the war. And bond rates, mortgage rates went down to three percent or less so that the life companies had no opportunities to...to make money from investments of bonds and in mortgages during those years which lasted,

I might add, into past the mid '50's.

Odom: How were the...how was the insuring of the soldiers' lives and so on in World War II handled? I should know, I suppose. Do you recall?

McLean: Yes. That's an interesting story. Back in World War I, as it broke out, many of the major companies...as a matter of fact nearly all the major companies in the country, put war clauses in their policies. Some of them had them in there all the time, but those that didn't inserted them. Again at the time World War II became threatening this practice was followed all over the country. A few companies, most of them small--I would say in the whole country not over thirty or forty companies--continued to write modest amounts of insurance generally on some high premium type of policy such as paid up at age eighty or endowment... twenty-year endowment on...on the lives of service personnel without war clauses.

Amounts of the policies were limited sometimes to \$1,000 per person, per company, sometimes \$2,000. The companies that did this all came through in pretty good shape. Some of them had made underwriting errors by accepting too much business from formed up units such as a given army division. And those particular units that were...got heavily committed in battle and were... had a number of casualties, and these...this experience was costly to some of the companies. But even those companies survived World War II by having rendered a very fine public service

and were able to do it without loss. This...the consequences of this experience has been now that all of your companies in the country are very hesitant to place war clauses in their insurance policies. And many of them who heretofore didn't solicit on military bases at all now are very active in solicitation on military bases.

Odom: Has the federal government been involved in...in...I'm under some impression that they had some...there was some...some legislation on...on the matter? Has there been?

McLean: Yes. They, of course, issued a form of government life insurance during World War I. This was revived during World War II. They then changed it to a \$10,000 indemnification benefit to service personnel by the federal government. But I think now that's been changed to a sort of a group life program underwritten by those companies of the country that want to for a very modest premium.

Odom: I thought it was handled that way now. I was wondering if that was the case--if it were handled or underwritten by companies earlier in World War II.

McLean: No. It was strictly a government program administered by the Veterans Administration.

Odom: I didn't recall if I ever knew that particular fact. Let me ask you this, Mr. McLean. Does it have much bearing on the administration and operation of the Insurance Department, the State Insurance Department, as to who is governor of the state (chuckle) or what the political administration is? Just from...of course,

I realize that it may result in a statutory change or things of this sort. But in administrative changes--is there any influence there?

McLean: The governor appoints a board member each two years. So if a governor were to stay in office two years, I mean two terms, he could appoint two board members and conceivably affect a reorganization and major changes in the staff of the department. Fire the commissioner, for example. But the...it doesn't quite work out this way.

Whoever the governor may be and whoever he appoints is either going to make mistakes. If he's a real rabble rouser--we never have had one, but let's assume we did--a real rabble rouser. He could not accomplish his purposes for a radical revision of the Insurance Department without, in my judgment, having breached the laws...general laws of our state to such an extent that he could be impeached.

So most of the appointees--appointments made by the governor, at least the State Board of Insurance--have been well-reasoned appointments. They have attempted to look into the background of people they're appointing, and these men are reasonable men. And though they may be of a different political philosophy from the two board members they join, they soon learn that the staff down there is a pretty professional staff. It's been put together over many years. Some of those people have been down there forty-

five years. A number of them have been there thirty years. They're knowledgeable people. They know the history of insurance. They know the pros and cons on a hundred issues. And to let these people go and replace them with a political appointee would be a tragedy. The quality of the appointments to the Board is such, that after a man has been there a few months, he knows who the deadbeats and the goldbricks are and who the competent employees are.

So the result is that normally if the new governor has an appointment or two or three to be made that he needs to take care of, it's the goldbrick that goes and with the consent and applause of the other two board members who maybe had to hire him knowing he wasn't any account. So the governor has little effect on the State Insurance Department. Board members run it under the law. If they violate the law, they could be corrected in a matter of thirty days by petition to the courts for a restraining order. And the personnel situation has been excellent because without the...it has none of the shortcomings of the Civil Service situation. And yet there is stabilized employment for those who do their jobs well.

Odom: This would...you served back in the 30's and 40's, I guess, under Mrs. Ferguson, Governor Allred, Governor O'Daniel, and Governor Stevenson. So you have a...

McLean: Yes, I was there for a bit under each of those.

Odom: This holds true even when you have...well, perhaps I'm not exactly

correctly there in saying this. But Governor W. Lee O'Daniel was connected with insurance companies before he was elected Governor, or had some knowledge of insurance, didn't he?

McLean: I don't recall that clearly. He organized several limited capital life companies after he returned from the U. S. Senate, and he and his family have owned those. And he attempted to build up one of them into a going concern. I don't know the history of that too well; I know that his company never was a factor, particularly, in the state. But he was selling Light Crust Flour mainly.

Odom: Yes, I knew he was doing that at the time he was elected. I just didn't recall whether he had any experience with insurance companies before he became Governor. I knew he had since.

McLean: Well, pertinent to this inquiry is an interesting thing. Governor O'Daniel and I have been friendly acquaintances since his election or soon after his election, though never close friends. He moved his home to Dallas about the time he was elected Governor or soon after. My family had not supported him for governor, and he sent a request over to the Insurance Department that I be dismissed. And the other two commissioners...as a matter of fact, joined by his own appointee to the Board, Senator Walter Woodard, told him they weren't going to fire me, that I was too valuable to the Board. So you see the workings of the Board in that connection. Governor O'Daniel later wrote me a very nice letter, and we've been on friendly terms since. But it doesn't alter the fact that the governor has some limitations on what he can do with the state

Board of Insurance, and this points up one of them.

Odom: And from what I've heard, Governor O'Daniel discovered fairly quickly in several areas that his powers of removal and appointment and so on were limited.

McLean: Yes.

Odom: Let's see, Mr. McLean, I believe you left the Insurance Department in 1944, and then came back to Fort Worth in the post-war period to enter private business. Is that correct?

McLean: Yes, sir.

Odom: How would you say that your experience with the State Insurance Commission over the years affected your ability to do well in private insurance business? What sort of contribution would you say it made?

McLean: Well, it made a very major contribution. First, I'd had it impressed on me most forcibly by the companies that were in shaky financial condition, the need for accurate records and accurate reports from those records at frequent periods during the year in order to see where you were...where you'd been and where you were heading. And as an examiner, of course, this had been work I had done. Collateral to that particular work...accounting work as an examiner, was a review of their policy contracts--all of them that they'd ever issued. This particular...this is exclusively true of life companies in order to determine what the reserving provisions of the policies were so that the proper interest rate, proper reserve tables, proper mortality tables were used in reserving the policies for statement purposes.

So you got a history of what had been successful and unsuccessful for the companies. If they had issued a lot of policies of a particular type, they would have a lot of reserves on those policies. If they had a handful of reserves, the policy probably hadn't been popular with the public for some reason. This gave some insight into what would...what the public wanted and didn't want. I, in the many smaller companies, found many innovators who tried things that succeeded or didn't, and I had that experience of theirs behind me. So, I was able to avoid many of the pitfalls in the establishment of a small company and watching it grow, that people without my experience sometimes, and most frequently, don't avoid. So I...I think without my experience with the department, my company would not have prospered so much as it did.

Odom: Let's, I guess at this point, move on to the...what are called "insurance scandals," I guess we might call them, of the mid-1950's and perhaps take a...something of a historical look. What... what was involved here and what kind of developments led to the... the problems that they had with the insurance companies in the mid-1950's? However you want to approach that--don't let me guide you too much.

McLean: Well, first a few general statements on...on that era, and the newspaper, news media publicity: The magnitude of the so-called "scandals" was inflated all out of proportion. First we must remember that the companies that were put into receivership were mainly small fire and casualty companies, mainly the limited area operational type of companies--such as farm mutuals or county

mutuals--with a very, very limited amount of business in force. There was one notable exception to this. And this was the Insurance Company of Texas headed by Mr. Ben Jack Cage which was a casualty company. But even it was a very modestly sized company by comparison to those older companies in Texas, and none of them compare at all in size with the old national companies. So the impact of the so-called "company failures" and insurance scandals on policy holders and claimants of Texas was much less than was emphasized.

Secondarily, life companies shared in this bad publicity unjustly. This is best exemplified by the I.C.T. itself. The casualty company was a hopeless bankrupt, but it owned the I.C.T. Life Insurance Company which was solvent and stayed solvent. It later changed its name or was merged with something else.

The statistical back-up for the charge of insurance scandals and company failure is built upon a misconception of the types of companies. We must remember that in the pioneer days of Texas when travel was by railroad to some twenty-five hundred rural communities over the state that a big percentage of our population at that time--perhaps as much as 70 to 75 percent of it--had no ready access to the insurance market. And this is when the legislature wisely or unwisely, back before the turn of the century in most cases, authorized the formation of farm mutuals by local groups, county mutuals, for the writing of

fire and casualty insurance, or either of them. They even had companies that could write nothing but crop hail. Then there were burial associations that wrote a form of life insurance up to \$150 with payments in merchandise. There were local mutual aid associations which could write in a county and those adjoining it, life insurance in modest amounts payable in cash. Some of them even had some authority to write accident-health insurance. There were state-side mutual assessment companies that could write either life or accident and health or both. They were brought under this...under the state jurisdiction in 1933, local mutual aids in the mid-'20's, the burial associations in the late '30's.

So Texas had made in the period of time prior to 1940 a serious effort to bring under regulation every type of institution writing any form of insurance. This swelled the ranks of the number of companies or associations to a staggering figure. For example, at one time we had over a thousand burial and mutual assessment life and accident-health associations alone. It must be remembered that most of these burials were tied in with funeral homes, and funeral homes in turn were run from furniture stores in these rural areas.

The '50's found many of these companies being operated by honest but inadequate people. They might have been good morticians, but they were horrible underwriters for life insurance. Their financial condition had deteriorated. Some of them were run by

promoters who were hunting fast gains, but the great number of companies that went into receivership in the '50's was the direct consequence of good administration by a State Insurance Department. They were getting rid of insolvent and shaky companies. Most of them were your burial and mutual assessment life companies with modest amounts of business. They only had to have three hundred or five hundred policy holders to keep in business. So those who wanted to make a story out of the insurance scandals could point to the horrible failure rate of insurance companies in Texas. Well, if all of them had been put together, they wouldn't have had as many policy holders as some modest-sized company now in the state.

But these are the statistics that they based their case on whether they were burial associations or what not. The congressional records, for example, have been filled with the justification that our automobile rating system is wrong because of all of the burial associations that went broke in the mid '50's, but the spark that enflamed this was some misconduct on the part of two board members that became public knowledge. And this led to the revision of the State Board of Insurance in 1957 and its restructuring, as I mentioned earlier.

Odom: Let me ask you a...well, perhaps I ought to go back to the... just what you've been talking about...first before I ask you that general question. You referred to the misconduct here on the part of two board members. I wonder if you would care to comment

on that?

McLean: I was not active in state affairs at the time. I was running my own company, and I couldn't for the life of me tell you what the board members were charged with.

Odom: Let me ask you this general question that you might reflect on. Why does the insurance companies--and I guess all of them get a share of it--why do they have such a bad press? Or do you agree that they do?

McLean: I agree that fire and casualty companies have a bad press. Life companies, as a rule do not.

If I had to go to the heart of this problem, I think I would sum it up on one point. I think it would be this: though life companies have one or two different ways of operating, they by and large sell the same product at...by and large for inconsequential differences in price. They went through the Armstrong investigation in the early part of this century, and as a consequence organized the Life Insurance Association of American, the Life Insurance Institute, the American Life Convention, the National Association of Life Companies, and the industrial type companies have an organization the name of which I can't recall, and so on. But at least, three of these organizations maintain big staffs or, better expressed would be, competent staffs in Washington. And any time Congress or any state of the union gets off on a critical foot toward life insurance, and it's not justified, these organizations come to life. Your Institute of Life Insurance has

no legislative function at all, but it maintains a clearing house of information on life insurance--its good features, its accomplishments, its contribution to the industrial and economic growth of the country, as well as its indispensable service to widows and orphans and beneficiaries. And this information is disseminated from the Institute of Life Insurance, steadily. So life companies don't let a situation, a controversy, get out of hand. They either correct justifiable complaints or correct misconceptions, and they do it early.

Odom: In other words they sort of police their own activities like the American Medical Association, the AMA.

McLean: They're more efficient than either of those and less controversial. They...

Odom: (laughter) I think you're probably correct because you don't hear about them as much.

McLean: The fire and casualty companies on the other hand have a different problem. We have found that you have township mutuals, county mutuals, farm mutuals, crop hail mutuals. There are reciprocals, Lloyd's, stock-fire, and mutual fire and casualty companies-- in this sense "mutual" in sort of a legal reserve sense. They meet the same standards as the stock-fire companies do. Some seven or eight different types of companies and within each of those types companies that operate on different bases. For example, some can participate with their policy holders while others do not. Some deviate at the beginning of the year; others pay dividends at the end. Some write only certain types of risks

such as Factory Mutual group or...And the stock companies have an association that does about the same thing--Factory Insurance Association. You have direct writers that don't operate through commissioned independent agents but through salaried agents. And there are those that operate on a local agency system. Some operate only through credit unions, others that...others that specialize in writing retired or active military personnel. So when the number of companies is multiplied by the number of methods of operating, you've got twenty-five or thirty different competing classifications. And to get those people to agree on the time of day is utterly impossible.

The results are they have no effective representation in Washington or at the state capitals, nor do they have a clearing house for information, anything like as effective as the Life Insurance Institute. They do have the Triple I, which is the Insurance Information Institute, that makes really about the only effective contribution toward dissemination of...of favorable information on fire and casualty insurance. But it is hamstrung by this fracturing of company types and company methods of operation.

Odom: So it's largely a...a matter of diversity which leads to poor public relations is what you're concluding?

McLean: That's right. For example, much is currently said about automobile insurance in Congress and that something's got to be done about the automobile insurance system. Well, insurance didn't create the system. The system created the insurance. The insurance is

designed...tailored around, much as a suit of clothes is a man, around the risk involved. And blaming the automobile insurance system or automobile insurance rates for the situation is missing the target.

If there's something wrong in the automobile insurance system, it's wrong in the cost of automobiles, in the cost of their repair, in their design. There are some things, maybe, that should be changed about our negligence laws, though I am not favorable to that at all. I think the system of the wrong-doer compensating the wronged is proper, and places the blame where it belongs and so on.

Because automobile rates are alleged to be high and out of proportion to other things, nobody in Washington has said they're not high, not out of proportion to other things. They pay for automobiles. They pay for hospital care. They pay for medical care. They restore lost income. Hospital care's gone up very dramatically. So has medical care. Our per capita income has quadrupled, or maybe it's gone up six times in this country in thirty years. Cost of cars has gone up that much, and so insurance has gone up sympathetically.

Odom: Can...in talking about automobile insurance here, let me ask you about something I was wondering about. Can some of the objections be met here by what's been suggested--I don't know what has been done exactly. You might want to comment on that--the pooling of

the high risk policy holders and automobile insurance.

McLean: Well, you have that now in assigned risk plans in each of the states related to bodily injury liability and property damage liability. I rather favor the idea that it should be broadened to include modest amounts of physical damage insurance and comprehensive cover and collision cover. But the companies oppose this, and it's...it's a hot political issue before the legislature. But my guess is that as the result of this outcry that assigned risk plans, which are available in each state to any unhappy motorist who can't get insurance somewhere else, will, over a period of the next few years, be broadened to include adequate though perhaps not sumptuous physical damage insurance availability, too.

Odom: So the way this operates now, it...the assigned risk operates only where a motorist can't get insurance or is unable to buy it. Is that the way it operates?

McLean: Unable to get it in a voluntary market. Now this is not always true, that is, unable to get it. A motorist may have his insurance with a given agent who's his friend. And this given agent's got his house and his business and his other things insured, but the man's a horrible driver, or he's got a bad arrest record, traffic violation record or something else wrong. The agent, rather than be embarrassed and tell the fellow he can't write it, will sometimes put his business in the assigned risk pool without the policy holder ever knowing it. And so to say that the man can't get insurance elsewhere is literally not true. It...that's

supposed to be the condition upon which he goes to the assigned risk pool, but in practice many of them go that could get insurance elsewhere.

Odom: Do you think that broadening the matter, making it more compulsory or assigning...putting these in assigned risk category through promulgated action by the State Board would materially effect the rate of automobile insurance? How would it effect it?

McLean: Well, the Board doesn't have that authority. It would have to be done by the legislature. But compulsory liability insurance freezes into the insured loss picture all of your bad drivers. And it's axiomatic that the more bad drivers that are in the insurance picture the higher the rates are going to be, and this is just a matter of record in the states that have compulsory insurance.

Now insofar as the assigned risk plan is concerned, it's my judgment that it ought to be broadened to include modest amounts of physical damage insurance, and it's my judgment that it will be broadened to do that--to take care of the insurance needs of a public that can't get it in the voluntary market.

Oral History Collection

William Hunter McLean

Interviewer: E. Dale Odom

Place of Interview: Fort Worth, Texas

Date: July 30, 1968

Dr. Odom: This is E. Dale Odom on July 30, 1968, in the office of Mr. William Hunter McLean for the second interview in his Oral History memoirs. Mr. McLean, an item we touched on before I'd like to ask you to comment further on is the matter of investment income in fire and casualty rate making, a matter which is before Congress at this time.

Mr. McLean: Critics of the automobile insurance system have proposed to Congress a study and investigation with the idea in mind that investment income of property casualty companies should be considered in rate-making functions and also that the negligence system--our legal system of tort liability under which for centuries even back in English law the "wrong-doer" is to compensate the "wronged"--that this system be abandoned and that all persons injured, regardless of fault and negligence, be compensated. A third item that has attracted not too much attention is that the administrative overhead of the insurance system is too...too great, should be reduced some bit or could be reduced dramatically by federal administration. However, the two items receiving the most

attention at this time involve investment income in rate making and possible changes in the negligence system.

On the subject of investment income the State Board of Insurance of Texas did a very extensive study. I would hazard a guess that it involves some 700 man hours. It embraced over 500 property casualty companies doing business in Texas. It was for the calendar year, 1965. The study was completed and dated December 30, 1966, and showed what the unearned premium and claim reserves, alleged by those who favor investment income in rate making to be the property of the premium payer, contribute to the investment income of the insurance companies. It is contended that some allowance from investment income from at least those reserves should be injected into rate making. Our study showed that had that been done, something in the neighborhood of fifty cents would have been the amount involved in a \$100 premium.

There are other considerations that are difficult in this area. And that is "What about the years in which the companies suffer dramatic losses in their investments?" For example, it was twenty-five years before the stock market recovered from its collapse in 1929. Had investment income been included in rate-making functions during those twenty-five years, which embraced the depression, rates would have skyrocketed during that period of time to repair the investment losses of the insurance companies. Another general consideration is that there would be little to restrain them on the prudence of their investments, if the policyholders are going to have to make up the losses in the future.

There are numerous technical objections to investment income in rate making such as a single line of insurance, automobile liability for example. A company might lose money on the line in a year, say, have an underwriting loss of ten per cent more than its premium. Obviously there would be no investment income from that source, while perhaps the company made money on automobile collision insurance. Yet, all people don't buy both coverages. This is complicated further by consideration of fire insurance lines, surety bonds, compensation insurance, and other lines, some of which may have made profits, some of which may have incurred losses. Lastly, you have the problem of a company losing money on an investment in a utility bond of a New York state company and charging it to Texas policyholders. So as a practical matter, it was our judgment that investment income was insignificant in amount at best. And secondly under the laws...as we know them today, the securities of an insurance company are the property of the insurance company not of the policyholder, and the risk of those investments is the insurance company's. It's questionable if a policyholder is entitled to the investment income.

I might add in conclusion on this subject that a very comprehensive cash-flow, cost-analysis study was made by the United States Fidelity and Guaranty Company of Maryland...Baltimore, Maryland, and it reflected that the amount that would find its way into the rate structure from unearned premiums and claim reserves would range from zero, representing those lines upon which losses were suffered, to about fifty cents. So the study

made by the state of Texas generally supports that one made by the United States Fidelity and Guaranty, and other companies. So it's not a large amount and never will be, to reduce premiums, and it could be an exceedingly large amount to increase premiums in depression years.

Odom: Have the results of these studies and the other problems of including investment income in rate-making functions been publicized very widely? It seems to me...the reason I asked the question, it seems to me that you see a good deal of...of criticism. Maybe it's partly demagoguery--I don't know, of the...the insurance commissions for not including investment income and the hint or the idea that it would make a great deal of difference.

McLean: Well, there has not been a great deal of publicity to the studies. The report the State Board of Insurance prepared on the subject was printed, and some seven hundred copies were supplied to members of the legislature, and sent to numerous college libraries. I say numerous, maybe fifteen. But as time wore on, we found requests for the study had used up our extra copies. Also, this report has been supplied to several congressional committees, but the press--although it was available to them and although a press release was written announcing its availability--has paid little attention to the...to the report. The trade press may have picked it up a time or two though I don't recall that particularly, but certainly the news media...general news media have not touched upon it. The U. S. F. and G. study and others that have come to my attention have never been reported in the...in the general news media. So

I think the criticism of the rating structure in that it does not include investment income stems from two things. First, the... the general misconception of rate making by news people, and secondly an unfamiliarity with the complexity of rate making and the great thrust that is given in state regulatory agencies that it be equitable as between classifications. And third, the hysteria of large numbers; they see insurance companies with resources or assets of millions of dollars, and they equate this as all being money of the stockholder. Well, nothing could be further from the truth. Most of the companies have a very limited amount of capital surplus that belongs to the stockholders by comparison to total resources, and then a great number of the companies are mutuals in which the whole thing belongs to the policyholders anyhow. But it has not--you're correct--it has not been picked up by the national press and has been very difficult to get to the attention of Congress.

Odom: Let me go next to the problems--the major specific problems you were outlining a while ago that the state insurance commission had in the years that you were chairman and some of the things that you were able to do about them.

McLean: Well, I'll be glad to touch on those because I think we were favored with a remarkable legislature and one willing to come to grips with the problems. But I believe we also mentioned this subject of changes in our negligence system that are before Congress, and I'd like to touch on that briefly. The present criticism of automobile insurance, more particularly, seems to arise from two or three

populous states where rates are...or appear to be excessively high, and the outcry about public liability insurance...automobile public liability insurance has attracted the attention of Congress. Two or three scholars have treated this recently, although numerous others have studied the question, for as far back as 1912, of changing our liability negligence system from one of the "wrongdoer" compensating the "wronged," to all persons injured recovering. Well, this not only would upset tort law as we know it and have known it for centuries, but would tend to increase automobile rates for...you have those now who are at fault in accidents who do not recover but who would recover under this new concept as well as those accidents and injuries involving a driver who...who was not involved in a collision with another car, but turned over on a road by himself or hit a fixed object. Roughly forty per cent of your fatalities now stem from single car accident causes alone.

So it's readily apparent that should a system of compensating people to the same dollar amount as they get now and applying it to all injured would easily double, perhaps treble the loss costs in public liability insurance, and this, of course, would mean a doubling or trebling of the premium. The...the damage in and frustration in the legal system would probably be of even greater impact for the federal law...federal government as such...has no common law, and approximately ninety per cent of your rule of decision is based on state common law. So, if the federal government got into a uniform tort law of some sort, the whole... the whole book of decisions written in the last four hundred

years would have to be thrown away, and none of us would know where we sat until the courts had ground decisions out interpreting the new laws.

Another thing that worries us about federal intervention in the automobile liability insurance field is that any time the federal government passes laws that affect its people, they must be equal in impact. At this point in time the courts of the boroughs of Manhattan for example, San Francisco for another example, Philadelphia another, and Boston still another, award much higher judgments for personal injuries--automobile injuries included--than do the courts of the rest of the nation. These judgments range from sixty to a hundred per cent above those granted on average elsewhere. Well, obviously if a person injured in Dime Box, Texas, with the same fact situation involved, same expectation of life, same number of dependent children, same mortgage on his house, same injuries, same everything, was under a federal system to be rewarded or compensated by \$5,000, while in those areas of higher awards people were getting \$10,000 for the same fact situation, this wouldn't long last. So a great levelling upwards process would take place in which awards all over the country and settlement amounts all over the country would increase, and this would be superimposed upon the increases I mentioned earlier.

Now this is a real consideration for it has occurred under Medicare, and nobody anticipated it--at least I'm not aware of anybody that did--the skyrocketing hospital costs that we've experienced in the last two calendar years. We know that nation-

wide those costs went up about sixteen per cent in 1966 and seventeen per cent in 1967. Whereas in earlier years the increase had been at an annual rate of about eight per cent, and this has been brought about by the hospitals in your lower cost areas wishing to provide the same services, wishing to have the same experienced personnel, and wishing to have all the new and modern equipment as is possessed and available to the best hospitals in the country. They're forecasting now that within a year or two we'll see daily hospital charges of \$100 and by the end of the century \$500, and there's no question in my mind but that the great thrust toward this has been provided by Medicare. I think we would see the same thing in the public liability field if a federal compensatory law of any sort were proposed.

Odom: Do you think...do you have any idea that Congress might act to provide federal legislation along these lines? What's your opinion of the possibility of that?

McLean: My belief--and it is only that--is that this is an upsetting proposal, not only changing what people...what people would receive in the way of compensation in the event of injury but stripping them of their right to sue and recover what they think is right. For example, if you were hit by a truck or a bus on the highway and severely damaged, you would be stripped of your right to sue the company that injured you under some proposals and would be limited to just those benefits that were provided by the law. And the benefits, of course, will have to be reduced very severely to off-set the increases in costs from other sources I earlier

mentioned, if the cost factor is to be held in line. This has been true of international aviation insurance for a long while. A traveler in international travel today under the Warsaw Convention is limited to a recovery of \$8290 in the event of total ...well, any sort of injury and...and...and death. The airlines in the U. S. have provided an additional coverage. It ranges up to about \$75,000, but there that terminates. Well, let's just take the example of a young married man, perhaps thirty years old, with two or three children, heavily mortgaged home, heavily mortgaged automobile, infant children, a wife, life expectancy of thirty-six or thirty-seven years, who is killed or totally disabled. The recovery necessary for his wife to live in the standard to which she's accustomed with him, educate the children, pay off the home mortgage and so forth, would run easily in excess of \$100,000. And to tell somebody that you can recover \$7500 or \$8290, or whatever, is not going to sit too well.

I think the matter is far too controversial. I...I think it would not be well received by the public. I think the...the Bar Association would very properly point up the chaos in...in administration of the law, and I...I doubt seriously that Congress would touch on this...on this...these aspects. They could well enter into some sort of re-insurance program whereby they...they subsidized the insurance companies for some part of the insurance rates in order to reduce the cost to some people. They are doing this in some areas already in crop insurance and...and riot and civil commotion insurance--there's a bill before Congress now on

that--flood insurance, and Congress just might pass something along that line. But to...to tear up the insurance system and the negligence legal system would be pretty strong medicine.

Odom: Where does the pressure, for example, for this compensating the... all people who are wronged as well as those who were in the wrong and automobile insurance come from? I mean, what groups...what sources does it arise from?

McLean: The advocates of this over the years have been legal scholars writing law review articles, who have a secondary social interest. Now of those who have made the attempt, made these studies, and attempted to evaluate how they'd go about it, they all are in disagreement as to how to proceed. The most recent study of this type was done by Robert Keaton of Harvard and Jeffrey O'Connell of Illinois, and they made some very erroneous assumptions about costs in their study. But it's received wide publicity. Some social workers think that a wrongdoer causing an accident, injured, with a wife to support, and maybe children, who loses time from work or is killed, becomes a social problem and a...and a...and a public welfare problem and that therefore they should draw some benefits. But we have already basic benefits that provide a great amount for such people--the persons involved. For example, there's all sorts of hospital and medical insurance, group as well as individual. The Social Security Act provides for care for dependent children until they're eighteen or so, provides for disability after age fifty-two. So it doesn't leave--our system, as it is today, all things considered--doesn't...it leaves very few people destitute

as a result of personal injury. So my judgment is that the cry for this is not warranted, and it's coming from people who aren't too familiar with the topic.

Odom: Have we dealt now with all those points that you were planning to-- there at the beginning?

McLean: Yes, sir. I think that brings us up to date.

Odom: Okay. Let's, if you would, then return to my question a while ago, about the major problems which the insurance commission had when you became chairman and some of the things which you accomplished there.

McLean: The State Board of Insurance of Texas, as we mentioned in our first interview, was brought under criticism in the mid '50's, and a lot of feeling existed and continued to exist among members of the Senate and the Texas House of Representatives, even down to departmental personalities. Some of the people employed by the department were regarded unfavorably by some members of the Texas House and the Texas Senate. As a result, the budget for the Insurance Department, salaries of the technicians and division heads, salary of the commissioner, assistant commissioner, board members, were lower than any other state agency. Morale had suffered. As an example, we need look only to the examination division--the insurance company examination division. In the five years through 1963, there had been an eighty per cent turnover in the state's insurance examiners. This means that we were constantly training apprentices. It's...examination of an insurance company is a more complex job than examination of a bank. In both

institutions you have loans and investments to look at, but in... in an insurance company you have considerable business assets and liabilities to evaluate. The training of an insurance examiner takes several years, and obviously if you lose any personnel within three years of the time they go to work, your staff...your staff is pretty inexpert.

This morale problem and pay problem ran all through the department. And the first effort the Board made was to remedy as quickly as possible the one most important shortcoming, and that was in the...in the examination...company examination field. So we asked the legislature in 1965 to give very substantial increases in appropriations for that division, and they did so. We were gratified to find that we were able to hire back nine very experienced examiners in the next two years while losing only two. So the situation with reference to the examination staff rapidly stabilized, even reversed itself. We had some minor reorganization...administrative reorganization proposals to the legislature in '65, some requests for new jobs, new personnel, but nothing really extreme. We went to the legislature emphasizing this examination question in hopes they would agree with us there, and they did.

In 1967 we prepared a thorough budget providing rating sections with the new personnel they needed. The legislature granted pay increases to all state employees in which the Department of Insurance participated. Our budget was extremely comprehensive in 1967, and if any division was shorted, it was our fault--not the legislature's--for the legislature gave us everything we

asked for. So the Insurance Department at this time is as well cared for as any state department, and this, I think, has been important. The...the legislature learned that the...the personnel was not as they had conceived them to be, that they were hard-working, diligent, dedicated state employees trying to do a good job. And I think the image of the Insurance Department with the legislature has reversed itself. This, I think, is probably the finest development in the last five or six years that's come about. Morale's high; efficiency is up.

Odom: Quite a contrast to the Liquor Control Board, I might add.

McLean: Yes, sir. (chuckle) They've got their problems now.

Odom: Before you go ahead with some of those...I hate to interrupt your train of thought, but it seems like we have sort of periodic crises here with one or another of the state boards. In the 1950's it was the Insurance Commission, and here in the 1960's the Liquor Control Board. Is there any explanation for that, or do we have other departments that seem to suffer from low morale and come into periods of crisis?

McLean: Well, in the '50's occurred the Veterans Land Board scandal. These are just part of and parcel of government. There...people that are appointed to those commissions or people the commissions employ are human, and they're subject to mistakes just like anybody else. They fall prey to overtures from the people they are supposed to regulate. Just like some of us in civilian life are not perfect. The emphasis given to somebody in public office doing something improper is a great many times as much as is given

to the normal thing in private life. So I would say it's a matter of emphasis. We're not going to do away with human frailty simply because it occurs in a public official and a public office. All of the governors are...are extremely careful with their appointments. Those that are confirmed by the Senate get a thorough going-over by the Senate committee, and despite it, sometimes somebody does something wrong. I don't know what else we can do.

Odom: It...it seems like from the information I've read about the Liquor Control Board that over the past few years it has gotten into the position as far as the pay of its employees and morale of the employees that you were talking about the Insurance Commission being in, what is the reason for...for this kind of thing? Is it the fault of the commission itself, perhaps of the board, or...

McLean: Well, it's some bit of both. Because the legislature's importuned by the voters to hold down expenses and appropriations, no legislator likes to go home and say, "We increased your taxes to pay higher salaries." So the influences toward low pay in public office are great. This is basic. So it takes a little courage on the part of an elected senator or representative to support higher pay for state employees. Yet, the State can not employ competent personnel and dedicated personnel in any measurable, substantial majority on low pay. For example, our starting pay for insurance examiners when I went on the board was \$392 a month, and we were trying to hire college graduates with accounting majors or insurance majors, most of whom had offers from industry, or from Internal Revenue Service, or from accounting firms, or from the

state Banking Department as bank examiners, ranging from \$500 to \$700 a month. Well, quite obviously if we hired somebody, we didn't keep him very long. So the base pay has got to be decent.

That's not all, however. If there is an esprit' de corps' in those agencies, if they are managed in a spirited, aggressive, alert manner by the commission head, if there's a stimulation to the employees, there will be a whole lot better performance out of employees than when it's managed by some indifferent day-to-day operator. Those two things contribute. They contribute to shortcomings in field personnel as in the case of the Liquor Control Board.

Odom: Do you think that generally speaking the most influential here, or more influential here, is the...the administrator rather than the board of these agencies?

McLean: Yes, this is true. In the case of the Insurance Department, the Board is full time, and there's a commissioner that works full time. But in the case of the Liquor Control Board and the Highway Commission and so on, they merely hire...the boards merely hire the administrative head of the department. Their function is to set policy and hire top personnel--the top man. And the...their only recourse is to fire him or change policy. So you're correct. The administrative head is the one that must do the stimulation of employees, must seek their pay increases, must call these things to the attention of his commission and of the budget boards, and ...and must attempt to...to look...look after his employees.

Odom: Okay, I'm...I interrupted you a while ago there when you were

dealing with the major problems that the Insurance Commission had. I don't think you had finished talking about those. You might return to...to that subject.

McLean: We were compelled during the time I was on the Board, pursuant to the rating formulas that the department uses and modifies from time-to-time in order to modernize them, to raise rates generally due to inflation. When loss costs go up, rates follow even if the frequency of losses stays the same. When frequency goes up and loss costs too, the problem is compounded.

In 1965 pursuant to those formulas, which have been accepted by the courts and reviewed by the public and the Board in public hearings each year, the Board ordered a slight average increase in auto rates. Following that order, the Board was sued by the state AFL-CIO and by an individual lawyer in Dallas to set aside the rate increases or rate adjustments. Some of the classifications had decreases, some increases. The average was an increase, as I remember, about four per cent. It's interesting that in both suits the court in Austin granted summary judgments to the Board, finding that the complaints were without merit, that the rate increases were justified and reasonable, that Board procedures were responsible, that there was no whimsy in the rate adjustments.

One of the aspects or allegations of the case was the investment income feature. This was strongly presented and advocated by the two litigants. But both cases were decided in the lower courts, and neither of the plaintiffs appealed. This, of course, was gratifying to us because it displayed that our

staff had done a fine job in accumulating the rate statistics and in developing the new rates. We spent a great amount of time reviewing our procedures in preparation for defense of those law suits. That, of course, is one development that we had, that the air was cleansed about the department's procedures in automobile rate making.

We found that a number of mutual assessment companies and burial associations were in deplorable financial condition. I think in our first interview we outlined that Texas had at one time over a thousand of such associations, and there were some five hundred or six hundred of them still doing business in 1964 and of that number about two hundred were in very serious financial condition. They had not been required to set up legal reserves, which is just another way of saying the amount of money that will be necessary to mature their policy contracts. We felt that the only way to measure solvency in any life insurance institution is through legal reserves. So the Board moved under laws that had been amended from time to time and with ample legal authority, to require these reserves in the associations. In the next session of the legislature, the legislature required those reserves by law, tempering a bit by a period of time for the companies to adjust to the impact. There was a great deal of concern among the managers of these companies, the officers of them, generally people not too familiar with the insurance business for, as we pointed out earlier, many of them were morticians.

But that concern appeared to be not justified. During the year '66 and '67, these reserves were taken into account in their financial statements. Their rates were adjusted to compensate for the reserves or other adjustments were made, and now the associations are at least upon a sound regulatory basis. This had been something that the legislature had tried to cope with for thirty-five years in Texas: what to do about these associations. And we think this was a great step forward.

In the...in the legislature of 1967 five different bills were passed strengthening supervision. One of them gave the Board and the State of Texas jurisdiction over unlicensed or unauthorized insurers. We found a great deal of solicitation of insurance in Texas by mail from as far away as Bermuda or the Bahamas. We found some "bucket shop" operators that just printed up policy forms and went to selling automobile insurance. This act gave the State jurisdiction over such people. It was not an easy one to pass because of Federal constitutional limitations, but the Federal courts in December, 1966, upheld such a law in Wisconsin. Texas patterned its law after the Wisconsin law.

A second bill was one to provide more stringent regulation of title insurance companies. This was supported by the title insurance companies of Texas, as well as by the Department, and followed the failure of a title company--a very fine title company I might add--because of the malfeasance of one agent in one community of such...to such an extent that it bankrupted the whole company with over a million dollars capital surplus. So we think this is a step forward.

And, uninsured motorist coverage, which relates to automobile public liability bodily injury insurance, was redefined to extend the coverage to a person whose insurance company became insolvent and also anybody injured by such a person with an insolvent company. This was a step forward. Such a bill had been introduced for years and languished, nobody taking much interest in it, but we were able to get it through with some refinements. And we... the coverage is very nominal in price--\$4 a person, \$3 for a second car. So it should help on the matter of company insolvency, if that becomes a problem again.

Another bill was designed to establish priorities for loss claimants in liquidation of property-casualty companies in receivership--those being the claimants under a policy of insurance or an indemnification agreement. This priority was established ahead of general creditors and those claiming unearned premiums. Our study of the...of the cases in receivership prior to that time indicated that it would, in most cases, permit payment to loss claimants of a hundred cents on the dollar. It would be a rare case that did not.

Another important piece of legislation was a conservatorship bill which provided an intermediate step prior to receivership. The State Board of Insurance and the Commissioner had only the authority heretofore to put a company in receivership after it was pretty hopelessly bankrupt. Even though a company might be losing money at a tremendous rate and you could see that soon its capital surplus would be invaded or used up, the Department had no

authority to move into the company and attempt to right the situation before it was bankrupt and subject to receivership. This conservatorship bill permits the commissioner to move into a company that is in shaky condition, but preserves great protection for the stockholders or owners of the company, guaranteeing due process and so forth. But at least it permits the commissioner to get there before bankruptcy is the only solution.

Oddly, the first company that was put into conservatorship petitioned the commissioner to take the conservatorship. Insurance companies have a...a hidden asset which is their book of business, their life policies or their agency system or their fire and casualty policies that can be worth a tremendous sum of money. Other companies would be glad to buy those assets. When a company is put in receivership, it loses this asset overnight because it can't continue collecting premiums. This way some of these books of business can be conserved and...and the values of them conserved for the benefit of the claimants and policy-holders of those companies.

Now those are the...are the major pieces of legislation that ...that we were able to get adopted. And with the...the improvement in the budget for the Department and with the reserves for mutual assessment companies, pretty well accounted for the major things in...in the five years I was on the Board.

Odom: Let me ask you one...I'd like to ask you one question about this business of priorities in a company in receivership. What had been the situation in regard...with regard to priorities and how had

this been established prior to this legislation? I'm uncertain about that.

McLean: Well, if a fire...let me add at this point that this bill related only to property-casualty insurance companies, and I would hope that ultimately we can draw one that will relate to life companies, but the situation's a little more difficult. But if a property-casualty company had been put in receivership prior to adoption of this bill, all of the claimants against the receivership estate stood in line equally. The printer who wanted his printing bill paid for the...for printing he'd done for the company, the agent who wanted some commissions, the personnel of the company that wanted their salaries, the policyholder who had a claim for some unused premium under a policy--for premiums paid beyond the date of receivership--any lawsuit that was filed however wildcat it might have been that might've resulted in a judgment--all of these people stood in line equally with the fellow who was injured or with a fellow claiming a benefit or payment under a policy for loss. The theory of insurance is directly opposed to that. The idea is that people band, together paying small amounts each to take care of the big loss of the unfortunate few, and yet this principle went out the window with receivership. This bill merely restored it insofar as it relates to property-casualty companies. However, you do have some priorities that we could not invade such as salaries for employees and taxes to the State and some Federal bankruptcy things, but we did at least put the loss claimants ahead of the general creditors and unearned premium claimants.

Odom: Do you see any further problems in state insurance regulation, either specific or general problems, that could be remedied by new policies or new legislation? You might turn your thoughts to that just a minute.

McLean: Well, regulation at the state level is far more efficient than it is generally given credit for being by its few federal critics. It is a most complex business, and the prevention of insolvency is ...is impossible. Regulation can only hope to hold insolvency to minimal amounts, and in this respect I think the states have done a fine job. Losses in property-casualty companies in ratio to premiums are far less than the losses in savings and loan associations in ratio to deposits even though your savings and loans are regulated by the federal government and have a form of deposit insurance. So it's doubtful the federal government could improve upon state regulation from the standpoint of insolvency. This is the big item--regulation for solvency.

When the state gets into rate making as it does in Texas, or doesn't get into it at all as in California, great controversy is stirred either way. People in California wonder if maybe the companies are charging too much. Other people wonder if they aren't risking solvency by charging too little, and yet the other extreme is in Texas where the state does most of the rating and becomes the subject of the critics. Somewhere in between these extremes is probably the utopia for rate making. Where it is, we are groping to find.

I think that the states in their day-to-day operations dealing with innovations in our economy, innovations in industry, innovations in insurance which follow the other, must stay abreast of the times. They must keep the legislatures well-informed. They must propose legislation. They must attempt to arbitrate as between the public and the companies on one hand and as between competing company groups on the other. Life companies as a rule do not feud between themselves as much as do property-casualty companies. There are about five types of property-casualty companies and about five different methods of operation for each type so there are roughly twenty-five competing groups in the property-casualty field. And it's very difficult for them to agree on any legislative or regulatory program, and in this area the thrust must be provided by the...by the state insurance regulator or nothing will move. Nothing will change.

I sense that a great amount of the complaint in Washington currently stems from this very source. The companies have not... have not been progressive enough in...in their public relations work. They've not been progressive enough in explaining their problems. They've not been progressive enough in...in looking after the insolvency question, for example. They were indifferent to the uninsured motorist insolvency problem too long. They finally woke up and went to work on it. At least one trade association did. So I...in substance I think this is probably the weakness: That industry is unlikely to offer--innovation in regulation.

Odom: Mr. McLean, first would you briefly outline or catalogue, summarize

political activities over the last several years starting wherever you think is **significant** or would be the best place to start, and I'll likely ask you some questions about your activities there.

McLean: Well, I've been a Democrat all my life. I guess you'd call me a "brass collar" Democrat. When they get to the liberal and conservative labels, I don't know quite where I'd fall. But my active participation in politics started in 1948 in the race for the U.S. Senate between Lyndon Johnson and ex-Governor Coke Stevenson. Senator Johnson as he later became, Congressman Johnson earlier, had run for the Senate in 1941, in an election following the death of Senator Sheppard and had been defeated by 1,250 votes state-wide in the...an election that created some charges of voting irregularity for he had been leading, up until the returns...late returns came in from two or three counties in southeast Texas. But in any event, no formal election contest was filed, and he remained out of the Senate, continued to serve as a congressman until 1948 when he again announced his candidacy for the Senate, this time to fill the vacancy of Senator O'Daniel, who had defeated him in 1941. Senator O'Daniel just retired. Governor Stevenson was the main opponent in that race. There was a third man of some strength from Houston, and a run-off was held. And it's now history--at least newspaper history--that Senator Johnson won it by eighty-seven votes, and those subject to some question as being part of a package of two hundred votes which had some serious doubts about them out of Box 13 in Jim Wells County.

What isn't generally known is that no election contest under Texas law or federal law, though there is no federal law except the injunction route--or wasn't at that time--no election contest was filed by Governor Stevenson or his supporters between the election date in August and mid-September 1948 when the Democratic Party certified Johnson as its nominee. Since Johnson had the majority, albeit by just eighty-seven votes, he had no cause to file an election contest. Governor Stevenson's people, after the Party certification, attempted to go directly to the Federal courts stating Stevenson had been deprived of his civil rights and attempted to fight the case out on that basis, which would have taken months. Because the general election was to be held in November, removing Johnson's name from the ballot by injunction would have defeated the election process completely. The U. S. Supreme Court disagreed with the injunctive approach and the complaints filed with it and dismissed the proceedings.

It's little known that an election contest was filed in Texas courts in Brown County--Brownwood is the county seat--involving a sheriff's race there. Suit was filed in August 1948, immediately following the Democratic primary. One of the candidates felt he had been defrauded of the election and sued for an election re-count in that county, at least in one or two boxes. The results of that contest, which was heard in the trial court in Brown County, and I believe in the Court of Civil Appeal, threw out some 1,700 votes and in that 1,700 votes Lyndon Johnson, improved his majority from 87 votes to about 500 votes. In other words, in the

1,700 contested ballots involved in the sheriff's race, Governor Stevenson had about a 500 vote majority. Those were thrown out and revised returns, if any had ever been made, would have shown Johnson with a 500 vote lead in '48 rather than 87 votes.

My help for him in that race was in Tarrant County, and I continued to help either in concert with others as leaders or alone in his political interests from that time forward. He was re-elected in '54. He was re-elected in '60 at the same time he was elected as Vice-President. He was re-elected as senator in the same balloting that elected him Vice-President. In 1956 as prelude to the national election in that year, Governor Shivers was in control of the Democratic Party machinery and had stated he was not going to support a Democrat so Senator Johnson was asked along with Speaker Rayburn to attempt to take control of the Democratic Party machinery in Texas and did. This was a hard fought precinct battle all over the state, county convention battle, and Senator Johnson and his group prevailed and won control of the state Democratic Party machinery. People of the same political philosophies have continued to control Democratic Party machinery since in Texas. The Party has been far more understanding and tolerant of who delegates are to be, far more moderate in its views, than it was in the time preceding the 1956 contest. In 1960 I was his Tarrant...was Tarrant County manager for the Kennedy-Johnson ticket, and in 1964 I was chairman of the state-wide Texas campaign for Johnson and Humphrey.

Odom: May I interrupt you just a second? Is there any particular reason

for your activity and support of President Johnson over these years? If this a personal relationship or...you...you emphasized this. Of course, it might be natural, but I was wondering if there is a...or any particular reasons why that, other than the fact that he is president now.

McLean: Well, we are personal friends, though not close personal friends. I'm not an intimate of his in the sense that I am one of the people he has known all my life. We are on a first-name basis. He for years has relied on...on me to advise him in connection with matters of politics, at least in Tarrant County. He's not always accepted my advice, I might say, but...but I have a very deep-rooted regard for his judgment. Again I have not agreed with all of his positions. But he's been a servant of the people of Texas for a long while and a servant of the people of the nation for a long while, and while they're all not cut to my cloth I have tried to be understanding about those things.

Odom: When did your personal relationship with him start? Before...prior to 1948 or...?

McLean: Yes, sir. We got acquainted in 1941. I was not active in that campaign for I was a state employee at the time and had other things to do. But we...our acquaintanceship dates from 1941. I helped him as much as I could in '41, but that was a very limited amount.

Odom: Well, go ahead and return to the line of thinking you were on there if you'd like to.

McLean: 1961...November of 1961 I sold my insurance company and within

thirty days John Connally, who was then Secretary of the Navy, decided he'd run for governor, and he asked for my help in his campaign headquarters which was situated in Fort Worth during the primary. And I was glad to do so for I admired John Connally very much and wound up working for him almost eleven months, January through November, in his race for governor. So with a few other items thrown in that are inconsequential such as the 1958 precinct conventions, the 1958 county and state conventions (and the 1952), that constitutes about my main political activities.

I have felt very strongly for a number of years that there are areas of the country that are discriminated against in...in the selection of presidential candidates and the election of the presidents. The Confederate states, if we care to go back that far, are certainly among them. The area west of the Mississippi is another one. When you count up the number of presidents we've had or even had a chance to vote for from these areas, you don't find very many. And I think I would have supported Johnson in 1960, if for no other reason, than he was...came from an area of the country that long since deserved more consideration for the top job.

He's been extremely cautious in...in his personnel, his aides, his assistants, in all of his appointments. When you figure, recall is a better way to put it, that he's been in public life now since 1935, I believe, or '38, many times longer than Governor Shivers, for example, was governor of Texas, and the only unfortunate incident by anybody close to him or appointed by him,

in that period of time, involved but one of his administrative aides (on a question that did not involve any...any...that did not involve the government at all), plus his vote, among all the other Senate Democrats, for Bobby Baker, why, that's a pretty good record. Allan Shivers, for a time it seemed, couldn't appoint anybody down in Austin that wouldn't embarrass him.

We're back to the thing we discussed earlier, that I think a governor is just unfortunate or a president is just unfortunate when these things happen. They appoint the best people they can find to jobs; the Senate confirms them, every reasonable investigation is made and if the appointee does something bad, why the Governor or President is blamed. I don't know how...how better to protect against it, but whatever it is, Johnson's either been lucky or more careful than most of them.

Odom: What...Mr. McLean, what does the state-wide manager for a presidential ticket of the Democratic Party do as...as you did in 1964? What...what...what are your activities, and how do you go about organizing the state to carry the state for the presidential ticket?

McLean: Well, we here in Texas because we are largely a one-party state don't have any machinery really for running a national campaign, and the burden, therefore, falls upon the appointed campaign manager more heavily than it would in...in the...in the nominally strong two-party states. And worse than that, your Demo...national conventions don't occur until time limitations are so severe for organizing the state that a Texas manager has a whole lot to do and darn little time to do it in. But in the '64 campaign the

first thing I did was find a place that we could call an office or headquarters that cost little or nothing, get telephones installed including about eight long-distance WATs lines, they call them, so that we could reach people all over the state by long distance phone. We got a list of...of politically oriented people, a state-wide list of some 25,000 or 26,000 names and immediately made a mailing to those asking for their help. Volunteers came in to work on the telephones. In a matter of two or three weeks we had county coordinators and district coordinators in each county. Those were men. We had a women's organization, and this was the first campaign I believe ever in Texas that had a woman leader in every one of the 254 counties. And then we had a "Young Citizens for Johnson-Humphrey," and we had leadership among young people in a lot of the counties though not all. We...we got together a newsletter that we started mailing out to lists that we assembled ...some Democratic Congressman supplied us some lists in their districts, for example. As I mentioned, we had an earlier list and from those lists we built our...our own working organization from precinct level up. When the campaign was concluded, we had over 35,000 names in our file of people who had supported us, or contributed to us, without regard to the earlier lists I mentioned. They were pure Johnson-Humphrey supporters. You have to decide on how many billboards, how much T.V., how much radio, how many newspaper ads, etc. to use. You have to try to get this within a budget. You have to decide on a budget. You don't know how much in contributions you're going to get.

Odom: Do you have some base from the national party or the state Democratic Party as far as funds go or not?

McLean: No, sir. I was loaned \$10,000 by the State Democratic Executive Committee, and my initial phone bill was \$8,800! So I didn't have much to get started on. The national does not help with money; they lean on the states for financial help. So we had our own money to raise and expenses to pay. You have to just guess on how much in contributions is going to come in; make it as conservative as possible. Then allocate some of that to each of the various medias--such as newspaper ads, billboards, television time, radio time, direct mail expenditures, and headquarters expense. The expense is always more than you anticipate it will be, and contributions are always less than the most conservative estimate. But despite this, we wound up with a...with a surplus--not much but some. And after waiting a while to be sure that all the bills were in, we sent most of it to the Democratic National Committee. Our newsletter that we got out, generally by the week, was mailed for about five or six weeks. It ran up to over a hundred thousand in number per mailing at the peak time. It's quite an undertaking to get that many pieces of mail out, but we were able to do it in twenty-four hours...from printing to Post Office.

Odom: Does the state campaign manager have to do any traveling to speak of in a campaign--state-wide campaign--like this?

McLean: It's not wise that he do because the hub of the information and activity is in the headquarters, and he ought to be there because

opponents are charging each other with something or other that has to be answered. The press is calling for positions on this or that. The manager, or at least the top flight press assistant, ought to be in that state headquarters at all times. Now, there are people that travel and do organizational work, but it's not wise for the top two people to be doing it.

Odom: Well, this was probably an easier state-wide presidential campaign than usual since President Johnson, a native Texan, was heading the ticket and because of his opposition, or do you agree?

McLean: Well, I certainly agree, and if I'd had to pick one to manage, that would have been it.

Odom: (chuckle) I believe...were you criticized for managing this campaign and continuing to hold your position as Chairman of the State Insurance Commission?

McLean: Well, I actually didn't continue to hold my position. I took a leave of absence without pay. Actually the laws permit somebody to be disabled for as long as six months, to hold his position, and draw pay. So I exercised no influence on the department while I was away. I don't believe I called them once about anything. And of course, we knew there'd be some Republican hollering, and there was a little bit but it was of no substance to us.

Odom: What do you anticipate your activities in...to be in the 1968 presidential race?

McLean: Oh, I would like to help where I can. I don't anticipate being as heavily involved as I have been in the past--not because of any lack of enthusiasm for the Democratic Party, but because I've been

in harness pretty long, and there are other people now that can do these things, and it's time for them to take over.

Odom: So you don't expect to be too active other than providing what help you can. I really don't have much more to ask you about. I might just give you a chance to add anything you think might be significant or any further comment you'd like to make at this time.

McLean: Well, I don't believe I have anything. You've explored my mind pretty thoroughly, Mr. Odom.

Odom: (chuckle) Okay.