

**Michael R. Lemov**

Counsel, House Banking Committee (1970-1971)

Counsel, House Energy and Commerce Committee (1971-1975)

Chief Counsel, House Energy and Commerce Committee (1975-1977)

**Oral History Interview  
Final Edited Transcript**

October 26, 2010

December 22, 2010

October 26, 2011

Office of the Historian  
U.S. House of Representatives  
Washington, D.C.

"Somebody once told me, a fellow legislative staffer, that you can do more with the stroke of a pen up here than you can do with a year's work of brief writing at a law firm, or a year's worth of lobbying for a corporation. There is immense power in the legislative branch. And my experience tells me that he was right. Overall, I think politics at the staff or elective level is a noble profession."

**Michael R. Lemov**  
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## **Abstract**

As the consumer rights movement began to take shape in the early 1970s, Michael R. Lemov worked for the House Energy and Commerce Committee as counsel, examining unsafe products and the companies that manufactured them. For six years, Lemov and his colleagues worked to regulate energy and insurance rates, standardize automobile safety, and investigate products ranging from lawnmowers to professional football helmets.

Lemov's interviews reveal the inner workings of House committees, including the tension that can emerge, in this case, between the full committee chairman and his subcommittees. In the early 1970s, as subcommittee chairs across the House fought for more autonomy, including the right to hire staff and hold investigations, Lemov supported Congressman John Moss of California as he and other reformers attempted to usurp power from the chairman of the Energy and Foreign Commerce Committee Chairman Harley Staggers of West Virginia. Throughout the oral history, Lemov describes the behind-the-scenes efforts by committee counsels to draft consumer protection legislation, organize hearings, select witnesses, and lead markups.

## **Biography**

Michael R. Lemov, the only child of Mildred (Weisman) and Irving Lemov, was born in New York in 1935. Growing up in the outer borough of Queens, Lemov's father, a trial lawyer, occasionally brought him to his hearings. After graduating from Stuyvesant High School in New York City in 1952, Lemov attended Colgate University, in Hamilton, New York. Lemov's mother, who worked from home for most of his childhood, went into the workforce in order to support him through college.

Lemov majored in political science, played on the soccer team, and became president of the Young Democrats at Colgate. Through the university's Washington Study Project, he worked in Washington, D.C., for Congressman Abraham Multer of New York during his junior year. Lemov graduated in 1956 and followed his father into the legal profession. He earned a J.D. from Harvard Law School in Cambridge, Massachusetts, in 1959 and moved back to New York to work in private practice.

In 1966, Lemov returned to the nation's capital to work at the Department of Justice. He moved to Southwest, D.C., with his wife, Penelope, and their newborn daughter, Rebecca. For two years, Lemov worked as a trial attorney and represented a number of federal agencies, including the Federal Trade Commission. Lemov and his wife later had a second child, Doug. In 1968, Lemov left the Department of Justice and took a job with the newly established National Commission on Product Safety. As general counsel, Lemov researched potentially dangerous products—everything from swimming pools to pajamas—selected witnesses, and held hearings. The commission submitted its

final report in 1970, complete with proposed legislation to improve the safety of consumer products in America.

Determined to turn the draft legislation into law, Lemov searched for a job on Capitol Hill. The House Commerce Committee had no staff openings, so Lemov worked as counsel for the House Banking Committee's Subcommittee on Foundations, which dealt with issues relating to nonprofits, charities, and other large giving organizations. A year later, Lemov took a position with Congressman John Moss of California on the Interstate and Foreign Commerce Committee's Commerce and Finance Subcommittee, continuing his work on consumer legislation. For four years, Lemov conducted investigations, held hearings, and drafted legislation. He played a vital role in creating and passing the Consumer Product Safety Act, the Motor Vehicle Information and Cost Savings Acts, and the Federal Trade Commission Improvements Act.

In 1975, Congressman Moss became chairman of the Commerce Committee's Subcommittee on Oversight and Investigations, and hired Lemov as the subcommittee's chief counsel. Under Moss' leadership, the subcommittee focused specifically on investigating federal departments and government commissions that oversaw the nation's insurance, health, and energy policies, including the Environmental Protection Agency, the Food and Drug Administration, and the National Highway Traffic Safety Administration.

Lemov left Capitol Hill in 1977, but continued his legal career in the Washington, D.C., area. In 2009, Maryland Governor Martin O'Malley appointed him as a member of the Maryland consumer council. Lemov is now retired and living in Maryland.

## Editing Practices

In preparing interview transcripts for publication, the editors sought to balance several priorities:

- As a primary rule, the editors aimed for fidelity to the spoken word and the conversational style in accord with generally accepted oral history practices.
- The editors made minor editorial changes to the transcripts in instances where they believed such changes would make interviews more accessible to readers. For instance, excessive false starts and filler words were removed when they did not materially affect the meaning of the ideas expressed by the interviewee.
- In accord with standard oral history practices, interviewees were allowed to review their transcripts, although they were encouraged to avoid making substantial editorial revisions and deletions that would change the conversational style of the transcripts or the ideas expressed therein.
- The editors welcomed additional notes, comments, or written observations that the interviewees wished to insert into the record and noted any substantial changes or redactions to the transcript.
- Copy-editing of the transcripts was based on the standards set forth in *The Chicago Manual of Style*.

The first reference to a Member of Congress (House or Senate) is underlined in the oral history transcript. For more information about individuals who served in the House or Senate, please refer to the online *Biographical Directory of the United States Congress*, <http://bioguide.congress.gov> and the “People Search” section of the History, Art & Archives website, <http://history.house.gov>.

For more information about the U.S. House of Representatives oral history program contact the Office of House Historian at (202) 226-1300, or via email at [history@mail.house.gov](mailto:history@mail.house.gov).

## Citation Information

When citing this oral history interview, please use the format below:

“Michael R. Lemov Oral History Interview,” Office of the Historian, U.S. House of Representatives, [date of interview].

## **Interviewer Biography**

**Albin J. Kowalewski** is a Historical Publications Specialist with the Office of the Historian, U.S. House of Representatives.

—MICHAEL R. LEMOV—

INTERVIEW ONE

**KOWALEWSKI:** This is Albin Kowalewski from the Office of History and Preservation, Office of the Clerk. Today's date is October 26th, 2010. I'm in Room 247, Cannon [House Office Building], about to begin a series of interviews with Michael R. Lemov, the former Commerce Committee counsel from 1971 to 1978. We hope this [will] be a long, very fruitful series of interviews. So without further ado, let us begin.

All right. Mike, thanks for being here with us today. For this first interview, I think we should just kind of talk about your early life, childhood, your experiences at Colgate and Harvard and then at DOJ [Department of Justice], and with [the] National Commission on Product Safety [NCPS].

**LEMOV:** That's fine.

**KOWALEWSKI:** Sound all right? So, just [to] ask a few simple questions, to begin with. Where and when were you born?

**LEMOV:** Well, I was born in 1935 at Brooklyn Jewish Hospital in New York City.

**KOWALEWSKI:** Okay.

**LEMOV:** My family, however, lived in Queens, another borough of New York City. Queens was known as the Bedroom Borough.

**KOWALEWSKI:** What were the names of your parents? What did they do for a living?

**LEMOV:** Well, my dad was Irving. He was a lawyer. He got there the hard way. {laughter} My dad came from the Ukraine with his parents in about 1907, when he was seven years old. His father had been a teacher in the ghetto in

Kiev, the city they lived in. Something pushed the family to get out of Russia and the Ukraine. So, they came to the United States.

My grandfather's name was Boris. He had been a teacher, but all he could do in the United States was open a hand laundry. He pushed a laundry cart around the streets of East New York. I guess he couldn't master the language and was in his middle years and couldn't, obviously, get a college degree here in this country. There were older children, but my dad, second to youngest, was the first one in his family to go to college. As a lawyer, he represented individuals and small businesses, usually against much larger entities. You could call him a plaintiff's lawyer or a small business lawyer. He never made much money. He never had big clients—big corporations or other big clients. He was very interested in politics, my dad.

**KOWALEWSKI:** What did your mom do?

**LEMOV:** My mom's name was Mildred. At first, she was a stay-at-home mom, as many women were in the era of the 1940s, when I was growing up. She had worked as a secretary in her youth. But then she stayed at home with me. I was an only child. And I was the apple of her eye and, I guess, of my dad's as well. They treated me very well. They gave me a great deal of backing in whatever I wanted to do.

Here is a family story about my mom and the hubcaps. My mom—this, I guess, is true of many moms, but is an example of my mom. I was not feeling very well, and I was asleep one night in our apartment in Queens. Astoria was the name of the subsection of Queens we lived in. My parents never had the money to buy a house. They didn't have the down payment. How America has changed in so many years! But they couldn't afford it. So we lived in an apartment, in Astoria.

I was sleeping—not feeling very well. My dad had his car parked in front of the garden apartments where we lived. There was a big streetlight, I remember, that would shine down on this old brown Dodge. That evening, my mom was looking out the window when some guy arrived and proceeded to remove my father’s hubcaps, one at a time. Dad wasn’t home, he was out somewhere. Now, my mother could have opened the window, very easily, and shouted, “Police!” or “Stop!”, and the guy probably would have run. Or she could have gone to the phone and called the police. But she didn’t do a thing. Next morning, she explained that she was concerned she might “disturb Michael or wake him up.” So, Dad didn’t have any hubcaps for a while, after that. {laughter} That’s the hubcaps story. I guess it’s an illustration of a mother’s dedication to a kid.

I was just an average kid in Queens. Astoria was a polyglot neighborhood. There was a large Greek population—and there still is—with Greek churches and Greek community clubs. There was a big Italian population, a lot of Irish families, some Jewish families. But what I remember was it was a wonderful neighborhood to grow up in. You didn’t have to drive anywhere to get to a store. All the stores were located on 21st Avenue, right around the corner from where I lived, on 77th Street.

Later, by the way, I ran for state assembly from this district, when I came out of law school. That’s another story. But the point about the neighborhood was it was really supportive. We all played baseball, football, basketball, roller hockey, soccer together. We were Cub Scouts and Boy Scouts. We had a German father in the neighborhood who had a couple of daughters, Caroline and Connie. Girls didn’t play soccer in those days. So, Walter Lagner got all the Cub Scouts in the neighborhood, and he organized a boys’ soccer team.

We played in the German-American Soccer League in New York City. I was eight years old. It started me out on a lifelong passion for the sport.

**KOWALEWSKI:** Did you watch the World Cup at all this last year?

**LEMOV:** I did watch the World Cup. My son watched it, and my grandson watched it. We're all soccer fans and players.

**KOWALEWSKI:** Nice. That's great. Now, you were born at the tail end of the Depression and the New Deal. What was it like? Did you have a sense, growing up, [of] America moving from prosperity to [the] Depression and then the beginning of World War II? Do you have any memories of this early—this mobilization and what that did to kind of define the postwar period?

**LEMOV:** Absolutely. That was a major part of my youth. For example, my dad had an air raid warden's helmet in our house, and also a gas mask. This was in the early 1940s. We lived in Astoria, in a place called Garden Bay Manor, with new garden apartments that kind of looked Tudor-like—kind of like England. We really thought we were going to be shelled or attacked by the Germans. We had rationing stamps. I remember when the United States invaded North Africa and defeated the German Africa Corps. The windows opened in my neighborhood. People leaned out and cheered—I mean, hundreds of people cheering and yelling when that came over the radio, that the United States had finally won a battle against the Germans. We had stopped retreating, with our allies, the United States and England, we had perhaps turned the tide. So, the war was a dominant thing in our lives, as was the Depression.

My dad was a young lawyer. But his career never did take off in terms of big money. He survived the Depression okay. I don't have the feeling that we were ever really hungry. We were very middle middle-class, average people. I

wasn't born until 1935, when we were coming out of the Depression. And then World War II really turned the country into a booming economy.

My dad was a liberal, progressive man. He loved FDR [Franklin Delano Roosevelt]. My mother loved FDR. Franklin Roosevelt's name was magic in our house and in our family, among our friends. FDR was considered a defender of the people, a defender of the little man. He was a "traitor to his class" to some, perhaps, but not in my family. My father lived through an era when we came out of the Depression, won the war, and rebuilt the economy. It was a great, great generational triumph.

My father had a belief in progress. The United States was getting better year by year, and we would someday achieve the perfect union. My mother shared that belief with him, but she was not as active. My dad was active in politics. I remember the phone ringing many times, and it would be Mrs. Potofsky or Mr. [Jacob] Potofsky on the phone. They were the leaders of the Amalgamated Clothing Workers Union. My dad was not actually a union man, he never belonged to a union. He never got anything out of the unions. They never gave him a case. They never sent him a client, as far as I know. But he was an active lawyer, and he supported their goals. He went to many political meetings. Another thing, he was definitely not a regular Democrat. He was liberal. He would tend to be a Democrat, although we had Republicans who were progressive, in New York City, in those days too.

Fiorello [Henry] La Guardia was another hero of mine, not as much as FDR, but the "Little Flower" was revered. My dad believed in progress. He believed the country was getting better. He believed in Roosevelt's New Deal. Dad ran for the New York city council, on the American Labor Party ticket. The American Labor Party was acceptable during World War II and until 1948, when my dad quit the party. He told me later he quit because he thought the

Communists were getting too much influence. He showed a lot of judgment in understanding that progressive America couldn't go too far to the left or it would become alien to our system.

To talk a little more about my dad if you don't mind, I'll just give you two more anecdotes. There's the one about his running for office. I was out on a street corner handing out leaflets for my dad's campaign for city council when I was 10 years old. I was brought up in politics, and mostly losing politics, because we were always the liberal left, and even in New York City in the 1940s it was hard to win.

Then my dad took me to a jury trial once. He was representing a woman who fell down and injured herself, and it was a long trial. I sat there all day, at about age maybe 13 or so, watching his jury trial, watched him try the case. I thought he tried a beautiful case, and I thought the woman deserved some money for her injuries. But the jury came in against us, no cause of action. I'll never forget going down in the elevator in the Westchester County courthouse. My dad was talking to the jurors about the case. That embarrassed me. He asked the jurors, "What caused you to come in with your verdict that way?" which is done by a lot of lawyers, and it's a good way to find out what you did right and wrong. I just couldn't believe the jury wouldn't reward that woman and my dad for all that hard work. He didn't get a nickel because he worked often on a contingency fee basis. So, he was an individual's lawyer. He never was a member of a firm until the very end of his career. It was a hard life. We were an average family. We didn't have a lot of money.

So, those are the leaflet and the jury family stories. My mom went to work when I was 14. She either went to work to get herself a fur coat or to put me through college. I'm not sure which. But she ultimately achieved both. She

got the fur coat before she died. I believe it's still hanging in my closet somewhere. Or we gave it to the Salvation Army. She helped me get through college. I did have scholarships. But I never would have made it without my mother and dad telling me, "You can achieve anything you want. You can go to any school you want to go. In this country, there are few limits here. It's up to you, Mike." I recall that very well, from both my parents.

**KOWALEWSKI:** Well, it seems that you learned that lesson early on. These formative experiences certainly come out in a *New York Times* quote from 1950. And you know, as a kid, it seemed like you were pretty well aware of the issues facing Western society in the postwar world and—

**LEMOV:** No.

**KOWALEWSKI:** Yeah, very much so. The *New York Times*, in an article that said, quote "The problems of the present world crisis are reflected in the reading habits of the American youth" quoted you as praising works by Howard Fast, who's an author of works like *Citizen Tom Paine* and *Spartacus*.<sup>1</sup> You said, quote "Whether you think him famous or infamous, his books have a social meaning combined with an important story." For a 15-year-old kid, that's surprisingly engaging!

**LEMOV:** Well, there is no question that I sure was involved in current events as a kid. I used to love *News and Views* when I was at P.S. 2 in Astoria. I remember I used to love to stand up and, you know, we'd have a few minutes. Everybody would have a chance to relate a news item. So, that was a big deal for me. I liked that. Around the dinner table, we always talked about current events.

I think the public school system in New York was very good. I went to junior high school, public school. Then I took an exam for Stuyvesant High School, which is where I was when I was picked for the *New York Times* Youth

Forum, for some reason or other. Stuyvesant was kind of an early magnet school. Brooklyn Tech, Stuyvesant, Bronx Science, and maybe a few others were schools in New York where they specialized—they were college prep kind of schools. You had to take an exam to get in. So, I went to Stuyvesant. I had to travel: two buses and two subways from Astoria to the downtown Lower East Side, where Stuyvesant was located.

At Stuyvesant I was vice president of my class. I ran for office early. Even then, I had the bug. I actually ran for president of my class, which was about 1,000 students—a very big school. I had to make a speech in front of all these students. It was scary, I remember, but I got through it. I came in second to a guy named Dave Sirotta, who later went to Swarthmore and was a very good football player for Stuyvesant. So I was vice president, by virtue of coming in second.

I also was sports editor of the high school newspaper. Probably most important in my later life is, I started playing soccer on the Stuyvesant team. I was a starter at midfield for Stuyvesant and, thereafter, for Colgate. So, I had a good youth. Somehow it got me involved in public affairs.

**KOWALEWSKI:** Did you ever visit Washington, D.C., as a kid?

**LEMOV:** My parents brought me here, with a friend and his family—my friend Ed Pollak and his family. We stayed at a rooming house on K Street, which must be a skyscraper now or what passes for a skyscraper in Washington. We looked at the great monuments and sights in Washington. This was when I was probably 10 or 12. Yes, I was here, once. That's all. The only time.

**KOWALEWSKI:** Okay. Did you have a particular attraction to politics at all? I mean, what was it that engaged your activism and your mind so much, as a youngster? Was it

your—? Clearly your dad, and your parents were, you know, very encouraging, but was there something deep down that really gnawed at you?

**LEMOV:** Must have been in the genes.

**KOWALEWSKI:** It must have been in the genes. {laughter}

**LEMOV:** I mean it, really. I didn't start out to be interested in politics.

**KOWALEWSKI:** Okay.

**LEMOV:** It was instinctive, or automatic. Of course, my education furthered that. I mean, having these current events and *News and Views* matters—opportunities in public school, having an election in high school, having a vibrant press, which I followed a lot. We didn't have television very much in those days, but many newspapers were all over the place. But there was nothing that seemed to compel my interest in politics. My mother always wanted me to be a doctor. She was absolutely set on that. My dad never said anything about what I should do in life. There's a lesson for parents. Don't try to push your kid into anything. Because the child will probably do the opposite.

My father never suggested to me that I become a lawyer. Even though he sometimes struggled financially, his role model was important to me. I think when you talk to me about the National Commission on Product Safety and about the House Commerce Committee, I think the people I tended to revere in those situations kind of in some way struck a chord like my dad did. I'm not sure. But anyway, no, there was nothing particular. I just was born for it.

**KOWALEWSKI:** All right. Did you have a particular subject in school that really attracted your attention? I mean, you said these—Stuyvesant was science and tech. It's still science/tech and still one of the more prestigious public schools in New York. Did you take civics courses and that sort of thing? Anything really draw your attention in?

**LEMOV:** It was a basic liberal arts curriculum. We had history. I don't remember liking anything much more than other things. I liked the English and history end of it a bit more than math, although I did pretty well in everything. There wasn't a real course in political science or civics until college. It's funny. So, it wasn't that that got me interested in politics.

Oh, one day my dad took me to the New York City council meeting, in City Hall in New York. I was about 15, maybe. He wanted me to see the city council in operation. I remember sitting there, watching. He went somewhere to talk to someone. Then he leaned over and said, "Come on with me, Michael." So, we went outside, and there was Mike Quill, who was a member of the city council and president of the Transit [Transport] Workers Union, a famous feisty Irish labor leader. My dad wanted me to meet Mike Quill. I shook hands with him. That's all. Perhaps little things like that.

Quill later shut down New York City with a transit strike. If you research that, you'll find it was a very unpleasant situation for many New Yorkers. Quill did not come out looking very good, nor did the labor unions, for the inconvenience they caused. But, no, there was nothing in the curriculum of schools that particularly pushed me toward American government or politics, not until later.

**KOWALEWSKI:** Okay. Did you have a favorite, though?

**LEMOV:** I'd have to say reading and history—English and history.

**KOWALEWSKI:** Okay.

**LEMOV:** Yes.

**KOWALEWSKI:** You said there was a vibrant press during that period. I'm curious to know, especially with your activity in consumer protection later on in your career, if you ever read some of the early muckrakers—Upton Sinclair, Stuart Chase, Frederick Schlink—these guys. They wrote that book, *Your Money's Worth* in 1927.<sup>2</sup>

**LEMOV:** I wish I could say that I was a big reader, an avid reader, in those days. But I remember Fast, and a book called *Dynamite* by Louis Adamic, about the early struggles of labor in America.<sup>3</sup> But I was more of an activity kid. I was out there playing ball with my friends. My big activity after school was to get out there and play baseball or football or soccer—competitive things.

**KOWALEWSKI:** Okay. Now how did you wind up at Colgate?

**LEMOV:** Well, that's interesting. I applied to five colleges, coming out of Stuyvesant. I wasn't a straight-A student, I had a B+ [average] or so. But I had a lot of extracurricular activities and, probably, decent college boards. So, I applied to Dartmouth, Cornell, Colgate, Williams, and Swarthmore. So, Williams put me on a waiting list. Swarthmore turned me down and took my friends—Dave Sirotta, my nemesis, who beat me for the class presidency and also beat me out for Swarthmore. Swarthmore was a very small school—that is the way I rationalized it later. How, I thought, could they ever turn me down? But anyway, David was very smart, and he was a jock as well. Dartmouth, Cornell, and Colgate all accepted me. So, in terms of prestige, you'd have to say it was Dartmouth, Cornell, and Colgate, in that order. But I didn't go to

either of the two bigger ones. The Cornell soccer coach really wanted me. He pushed for me because he thought I'd start on his team. I would have, but I went to Colgate. Because when I went to visit Colgate, the smaller college, they greeted me with such warmth and family friendliness. They said, "We want you here. What do we have to do to get you here, to Colgate?"

So, I went to Colgate, where I got involved in some of my first, I would say, political battles with powerful forces at the school. I guess I went to Colgate because they wanted me, and they offered me some scholarship money. I felt really guilty about taking the college money completely from my parents. My mother had gone to work when I was 14. My dad never had a lot of savings. They were scrimping to put me through. So, when I could get a dormitory advisor's job, which paid my room, and a job in the kitchen, where I washed the pots, pots that were so big that—with mashed potatoes in them—if you made a misstep and you landed in the mashed potatoes, you could drown. So, I remember they also gave me some money—student loans—which I paid back later on. But Colgate got me into some real battles.

Colgate turned out to be political training for me. The faculty and the administration were fine, but it had always been kind of a preppy college. Eighty percent of the students were from private schools or prep schools. I was a minority, coming from a New York City public school. So, at the end of the first semester at Colgate, you went to fraternity "tunks," they called them, where you went around and you met everybody and shook hands. Now, I was already on Colgate's newspaper, known as the [*Colgate*] *Maroon*. I was already a starter on the soccer team, the freshman team. I started four years at Colgate, one year on the freshman team, three years on the varsity. I was a midfielder, which is a pretty key position on a soccer team. I had high

grades. But anyway, I figured, you know, I was kind of God's gift to the fraternities. They didn't agree.

So, I remember, when we opened up our big envelopes with the invitations—the bids from the 13 Colgate Greeks—my roommate, Tom Provona—great guy, pitcher on the baseball team, everybody at Colgate had some kind of sport—but Tom had a brother in KDR, and he got many bids. People down the hall, who knew people in the fraternities, got four, six, eight, 10 bids. I had one slim, little envelope inside of my big envelope. It was like a punch in the gut. So, I opened it up. It was from a group called the Commons Club, which was a local fraternity housed in a dormitory.

I joined them. They were good people, I have friends from the Commons Club who I still see. It was a fine group to be a member of. It gave me a little community to join and to participate in. But I was mad as hell at the frat system. Here's what I said to myself: "We've got to get rid of these people." So, Commons Club elected me their representative to the Colgate student senate.

When I got to the student senate, I introduced a motion to throw the Greek-letter fraternities off the Colgate campus—kick them out. It lost narrowly, 14-13. Some of the fraternities—the Lambda Chi [Alpha]'s and KDR—actually supported me, I'll never forget that. Randy Petgrave was a good friend of mine. I don't know how I was friendly with him, but he was a guy with a conscience, and he represented Lambda Chi. He voted yes, throw the nationals off campus. But we lost.

They did get thrown off campus, years later, when the radical students of the Vietnam War-era pulled a sit-in, because they discriminated—the fraternities—based on their national charters, many of them would not take

Jewish students. Nobody would take the few blacks we had in the school. We didn't have women yet, that revolution was yet to come. I was too soon for that one.

Ultimately, Colgate put me on the student judiciary board, made me chairman of the student judiciary board. I think it was an appointment by the dean, Carl Kallgren, I don't think it was an elected position. I probably couldn't have won after the fraternity battle. But anyway, I was on the student judiciary board. It was kind of an honor. I guess the dean figured I was a burgeoning lawyer or something. I remember we actually suspended some students from campus for drinking and for doing some other infractions that violated school rules. So, by that time, I'd already been elected and appointed to at least two little things.

Colgate was easy for me. I was magna cum laude. The first year was really a review of Stuyvesant. The New York City public schools put me way ahead of the first year at college. I coasted to all As and Bs at Colgate. All I can say about it is I enjoyed myself. I didn't mind not being a member of the fraternities, except on party weekends, when you had a date, you know, and I had to go find a bar to drink at or something. You couldn't quite participate in the frolicking. The fraternity system would have probably been a problem for me anyway because I wasn't really a big drinker, and I wouldn't have been a hail-fellow-well-met because I was always working on something. Oh, I was president of the Young Democrats in college, too. That was easy. There were not many Democrats at Colgate then. So, already I was starting, you know, further down the political road.

Colgate was a good school for me. It got me to Harvard Law, which probably was a definitive moment in my life. I applied to Harvard and Yale law schools—only two schools. I got into both. But I got mad at Yale, because

they didn't offer me any money in the acceptance letter. I had asked for a scholarship. Harvard said they accepted me and gave me a scholarship. Yale didn't. So, I wrote them a kind of a {laughter}—a letter saying, "Sorry, I'm going to Harvard, and by the way, I am stunned that you didn't offer me any financial help." I was perhaps overconfident. Yale wrote back and said, "Well, we hadn't gotten to that yet. You might certainly have qualified for financial aid." It turns out Harvard was just great for me. Yale would have been good, too. But Colgate got me there.

**KOWALEWSKI:** What was your experience at Harvard like?

**LEMOV:** Well, Harvard was like a bucket of cold water being poured over my head. All of a sudden, I wasn't the smartest kid in the room or the one that volunteered the most or the best. Harvard had four sections, 125 people in each section. We sat in these huge amphitheater classrooms. The professors, many of them, used us as kind of the bull, you know. {laughter} They would stick a little jab in us because they used the Socratic method, Q&A. They would call on us cold. They didn't recognize hands going up, which is what I was used to doing at Colgate, where the professors loved students to talk. At Harvard, they used a chart, and they would just say, "Mr. Lemov, would you please state that case?" It could be embarrassing. It was difficult. It was challenging. I found that the things I said were okay, but the guy next to me or the woman on the other side were sometimes a step ahead of me. And, wow, that was a challenge!

So, here my dad comes into the picture again. My first semester at Harvard, I was really shaken up because these people were smart! I sort of couldn't understand some of the concepts the professors were throwing at me. Like something called "trespass on the case." I mean, most lawyers probably don't remember that one either, from law school, because it's kind of obscure

English law. It means an indirect trespass on someone's land, like if your birds fly above your neighbor's land and damage their crops or something like that. I couldn't figure out what the heck it meant. So, my dad was up visiting me for a weekend, with my mom. They were always happy to come see me. But they gave me some space. They didn't hover over me. So, he just said, "Oh, that." I remember him saying, "That's really easy. Let me see. It's simple, son. Here it is." One, two, three, you know, "don't worry about it, you can get it, no problem." He made me feel confident. I went on at Harvard to be in the top part of my class. I did not make [*Harvard*] *Law Review*, something which bothers me to this day.

**KOWALEWSKI:** What was it like living in Boston at the time?

**LEMOV:** Boston?

**KOWALEWSKI:** Yes.

**LEMOV:** We studied so hard, I never saw Boston. I was lucky if I got out to Cambridge. But in later years, I learned to kind of like Boston. It was a nice city, a nice-size city. But really, Harvard was Harvard, Cambridge was Cambridge. We were there to work. One summer I went down to Washington. In the summers, I always worked. I always had a job. I worked mostly as a waiter in hotels in the Catskill Mountains.

But one summer I had a job with the National Labor Relations Board [NLRB]. I came back to Washington again. I could probably have gotten a job with a company or some law firm in Boston for a summer job, but I chose to go to Washington, back to a place that pulled at me.

Well, there's another thing, Colgate had a Washington Study Project. I should have mentioned that. I was a political science major at Colgate. One

of the reasons I majored in political science was I liked this Washington study group. So, I spent a semester here in my junior year at Colgate. I worked with a Congressman, named Abraham [Jacob] Multer. He was from Brooklyn. I had a month with him. I had a month with the NLRB, a month following a bill through Congress, a month at the Interior Department. It was a really great experience. So, that visit to D.C. with my parents was followed by a semester in college. Then, when I looked for a summer job while I was at Harvard, the NLRB had an opening for a summer intern. I worked in the general counsel's office, and I wrote some draft opinions for them in labor law. That was my initial exposure to Washington.

**KOWALEWSKI:** What kind of course offerings did Harvard have at the time? You know, you obviously went on to become quite prominent in commerce issues. Did you take commerce law there? I mean, you mentioned labor law. But what was, kind of, the intellectual trajectory at Harvard that you followed?

**LEMOV:** Interesting. That's very interesting because again, Harvard was not pushing me toward politics or government. Harvard has now changed. Dean [Elena] Kagan, now on the Supreme Court, changed that. But when I was at Harvard, it was basically a corporate-oriented curriculum. We took commercial law, civil procedure, torts, securities law, constitutional law. Then you had one elective. The first year was all required courses. So, it was all these basic required courses, agency, contracts. Corporate law was major. Torts, contracts, agency, commercial law, corporations—those were all required. So, it was not really directed to government or public interest. It has changed.

Now they have a very active public interest program. They send some Harvard students out to do public interest work as part of their curriculum. But my only elective in the first two years was labor law. I chose Archibald

Cox's course. He later testified before the House subcommittee for which I was counsel. He was a pretty distant guy. He wasn't a warm and fuzzy professor. But he had a stern rectitude to him—steely gray hair. He reminded me of something my father had said.

When I was a kid, I was driving with my father in the old jalopy somewhere and we came to a red light. Quiet streets, no cars coming in either direction, as far as the eye could see. So, I said, "Dad, let's go. What are we standing here waiting at this red light for?" He said, "We can't go. It's against the law, son." Archie Cox reminded me of that same kind of attitude. I mean, you just knew that Professor Cox was going to stand by the law as he understood it. He made a big impression on me.

Now, Dean [Erwin] Griswold was interesting. I had Dean Griswold for federal tax. That's another course we had to take, taxation, which was not a strong subject for me. Griswold was a tough guy in class. He did not brook any frivolous answers. Once I foolishly volunteered, and he called on me. I gave him an answer. He said something like, "Is that all you can give us, Mr. Lemov?" Whammo! Early in the morning. Maybe I hadn't read the case that carefully. But that shook me up. It taught me something. You'd better be prepared. I've really come to the conclusion in my life, that the difference between a mediocre performance in anything—whether it be an argument, a speech, cross-examination of a witness for the House Commerce Committee—the difference between okay and really good is preparation. Preparation is everything. You can't wing it.

We were talking about Harvard and how Griswold shot me down. There's a story about Dean Griswold which was told to me by Supreme Court Justice Ruth Ginsburg. When my daughter got married, she and her husband-to-be didn't want a minister or rabbi to officiate. We looked for a judge. Judge

Ginsburg was then a court of appeals judge here in Washington. I called up her office and asked if she remembered me, and I'd like to come talk to her. Her secretary, perhaps being polite, said, "Oh, sure, she remembers you! Come on over." I went to see Judge Ginsburg, now Justice Ginsburg, and we had a wonderful half an hour. She said, "Oh, sure! I don't usually do weddings, but I'll be glad to do one for my classmate at Harvard."

But she said, "Did you know I didn't graduate from Harvard?" I said, "Is that right, Judge?" She said she had married a fellow student, Marty Ginsburg, who was a year ahead of her, and after graduating from Harvard he went to Columbia to teach. She told me she went down there for her last year but wanted a Harvard degree. She had mostly Harvard courses. She said they usually give the degree if you've gone to the law school for a majority of the time. "For some reason, Harvard denied me the degree. So, I have a Columbia degree."

Then she said, "Do you know the story about Dean Griswold and the four or five women in our class, Mike?" Then Judge Ginsburg said, "Griswold had all the women over for dinner in his house, early in the semester. We had a nice dinner. Then we all sat around his living room. Griswold turned to each one of us and said, 'Why are you here?' He made each of us say why we were at Harvard. It was as if he was saying to us 'You really should be home raising children' or something like that. Why were we here? Because we wanted to be good lawyers," she said.

**KOWALEWSKI:** Oh.

**LEMOV:** Maybe they just read him wrong. But they took it as—at least she took it as—a not very friendly comment toward women in law school. Later on, Griswold went on to be a great Solicitor General. I happened to have the

privilege of retaining him to represent a client in later years. The case was going up to the Supreme Court, and I knew we needed a really skilled Supreme Court advocate. So, having been Solicitor General, he took the case. He did a great job. We were friends later on.

**KOWALEWSKI:** Well, that's interesting, because one of the reasons I asked the question earlier about corporate law is because when you were at Harvard, some of your classmates went on to become very, very active in this consumer movement. Ralph Nader picked up his degree from Harvard the year before you did. Gerald Grinstein was at Harvard with you, who went on to become [Warren Grant] Magnuson's chief counsel, over in the Senate. Michael Pertschuk was at Yale and graduated the same year you did. Was there something in the water? If there was such an orientation towards corporate law—I find it fascinating that so many of you went on to become involved in the consumer movement and in commerce policy later on.

**LEMOV:** Maybe there was something about the school. I don't think so. Remember, Harvard had 1,500 students.

**KOWALEWSKI:** Okay.

**LEMOV:** It was the largest law school in the country. So, the fact that you had a Ralph Nader the year before, and me and Pertschuk over at Yale, and Grinstein—I don't know what year he came out of Harvard.

**KOWALEWSKI:** '58, I think? But it may have been '59.

**LEMOV:** Okay.

**KOWALEWSKI:** I think it's '59.

**LEMOV:** That's interesting. They're probably turning them out even now, as we speak, because they turn out a percentage of everything. I can't answer that question.

**KOWALEWSKI:** Okay. If—

**LEMOV:** I did run into Grinstein, indirectly, and Pertschuk, of course, indirectly, and Nader many times in later years.

**KOWALEWSKI:** Sure. That's definitely something I want to talk to you about.

**LEMOV:** Yes.

**KOWALEWSKI:** So, what did you do between once you finished Harvard and your time with the Department of Justice? There's about an eight-year, six-year gap there.

**LEMOV:** You're observant. I started out following the Harvard model. I tried to get a job with a Wall Street law firm. Even though I was in the top 20 percent at Harvard, I could not land a job with any of the big firms. The Harvard placement office had a lot of them come up to Harvard. I had a lot of interviews. They didn't want me, I don't know why. I can't explain it. So, I took a job with a middle-sized New York firm and lasted a couple of years there. Went on to another firm. I guess I was with two or three firms in New York, and even worked for a corporation, the Long Island Lighting Company [LILCO], whose general counsel was a Harvard grad, for a year or two. Long Island Lighting was really funny.

When I couldn't get a job on Wall Street, I was pretty mad. There was something wrong. I mean, those days, top 20 percent at Harvard, you could walk into a ton of law firms, and they'd grab you. I can't explain it. Maybe my politics showed. Maybe my religion showed. Maybe it was just that I

made a bad impression. Who knows? The firms were smaller in those days, much smaller, more white-shoe firms.

But anyway, here's a story about my time at LILCO, the Long Island Lighting Company. {laughter} When I didn't get a job on Wall Street—I wanted to get a Wall Street salary, which was around \$5,000 or \$6,000 in those years, which was high, for a young, first-year lawyer. The Long Island Lighting Company general counsel, a grand guy named David K. Kadane, was looking for a lawyer. They hired me. So, I went to work in Nassau County, the county seat, for Long Island Lighting. Well, it was interesting. I liked it. I was probably the most liberal guy in the corporate department. It was good work.

I mean, Kadane taught me that, you know—I'll never forget this. The first case I had involved LILCO purchasing natural gas from interstate pipelines. Kadane sued, with other utilities, to drive the price down, because they thought the price was being set too high by the Federal Power Commission [FPC]. It wasn't based on a fair rate of return. There was some federal regulation over gas prices. I don't know if there still is. I remember saying—I was writing a brief for Kadane in this FPC gas case, a draft brief. I remember saying, "What chance do we have overruling the Federal Power Commission's rate determination? Could they have possibly made a mistake here? They know the field so much better than we do." Kadane said, "Mike, the bigger they are, the dumber they are. There's a mistake in there somewhere."

Okay. So, that was my recollection of "Hey, don't worry about size. There's a mistake somewhere. You can beat them." That came up later in my life, too.

**KOWALEWSKI:** Okay.

**LEMOV:**

But then there was the hurricane. Now a hurricane on Long Island, for a utility, is a big deal. Everybody is mustered out to go take care of the power lines. My job was to go out to a shack on a peninsula sticking out into Long Island Sound somewhere and basically be ready for anything. Being a lawyer out there, surrounded by water and a bunch of linemen, you know, waiting for the lines to go down, seemed to be a little strange, but there I sat for hour after hour after hour. Finally, at about midnight, I said to the supervisor, “Okay, there’s nothing happening here. Can I go home and get some sleep?” He said, “no, you’ve got to stay here.”

Finally he said, “Well, you can go home. Be back here at 6:00 in the morning.” I said, “It’s going to take me an hour to drive home, an hour to come back. I can’t possibly be back here until 8:00.” And that’s what time I came back. So, the supervisor reported me to Kadane. Kadane hauls me into his office and says, “Listen, you have to follow the rules. Admittedly, he was being sort of irrational, but it was the law. You’ve got to stay out there.” He didn’t fire me. But it sort of soured me on the corporate culture. What did they have me out at a tin shack for, in a hurricane?

**KOWALEWSKI:**

Were you living in New York City at the time?

**LEMOV:**

Yes. This was after law school. After LILCO, I worked for some small firms—middle-sized firms for about six or eight years, several of them. And I ran for state assembly. When I ran—I moved home to Queens from Manhattan to run from the district where I grew up. Then after I lost the state assembly race—oh, I’ve got to tell you a story about that one, too.

Now, I was pretty well known in my little neighborhood in Astoria. But the fourth assembly district, in which I ran, was represented by a man named Jules Sabatino. He came out of the regular Democratic club in Astoria. He

was the incumbent. The district was pretty liberal at the Jackson Heights end, which in those days had a more progressive, more Jewish, and more liberal population. The Astoria end was Greek, Italian, Irish. That's where I lived.

So, I was running on the Reform Democratic line. This was a big factor in my life. At that time, Eleanor Roosevelt, Herbert [Henry] Lehman, Thomas K. Finletter, and Lloyd K. Garrison announced that they were going to challenge Tammany Hall, in New York City, because New York politics were old-line politics. The party was controlled by Democrats who really cared more about patronage, about little perks and keeping power, rather than major issues, like civil rights or putting a nuclear reactor in Queens.

So, when that was announced, I decided I'd go for the nomination from the Reform Club. There was one Reform Club in Jackson Heights, none in Astoria. I was an officer and a founder of the Reform Club in Jackson Heights. I did get the nomination. I had a contest but I won it, got the nomination to run in the Democratic primary. I was 26 years old. I was on the ballot, via petitions. Under New York's election law, you have to file a certain number of valid signatures.

So, it was Mike Lemov against Jules J. Sabatino. The first thing the organization does in this kind of a case is they try to knock you off the ballot by challenging your petitions. That's exactly what they did with me. First of all, they thought, "This young kid lawyer, we'll keep him in court. He won't be able to campaign." But my dad took over the lawsuit. I didn't have to worry about that, and I was out campaigning all the time, with all my old friends from soccer and baseball days in Astoria. They were out hammering up signs for me and knocking on doors.

**KOWALEWSKI:** That's great.

**LEMOV:** It was wonderful. They all—even guys that I didn't like much—were out hammering up signs for me, even the local tough guys. Astoria was a pretty tough neighborhood in some way, mild compared to what we have now. There were no drugs or anything like that, but even the tough guys, who I used to be a little bit afraid of in my young days, they were out hammering up signs for me too.

But anyway, my dad took on the regular Democratic machine in court. And he beat them. The court said my petitions were just fine, "Mr. Lemov, you can stay on the ballot." But my dad did more. He counterclaimed that Sabatino's petitions were faulty. He knocked Sabatino off the ballot, on an arcane point of law. So, for a few weeks, I was as good as the assemblyman-elect from the fourth assembly district. I probably would never have come to Washington. I would have gone to Albany. Thank God, it didn't work out. {laughter} The organization appealed the Sabatino ruling to the New York Court of Appeals.

**KOWALEWSKI:** Okay.

**LEMOV:** And they reversed it. The arcane point of law my dad used, was there were two Jules Sabatinos in our district. One was his son, whose middle initial was G. I think my opponent's petition said "Jules G.," and he was Jules J. Can you believe it? New York law came down to a middle initial?

But finally, the higher courts made sense of it and said, "The people who signed it probably knew what they were doing." So, Sabatino was back on the ballot, and he beat me in the election. I worked through an insurgent club in Astoria, run by Frank McGlynn, Sr. It was kind of an Irish club which had lost out in the ethnic politics in New York to the heavily Italian/Sabatino

club. But Frank McGlynn, Sr., was a grand old white-haired Irishman, who was backing me. I was working through that club, in Astoria in that end of the district. I will never forget. McGlynn said to me, the first time I came in, he said, “Next meeting is two weeks from now. Remember, every member bring a member,” double the size of the club, you know. So, I remember him well. A real politician and he taught me some things. So, back to what was I doing then. What was your question?

**KOWALEWSKI:** It was just—what you had done in-between your time at Harvard and then your time at DOJ.

**LEMOV:** I ran for state assembly. I practiced law in New York.

**KOWALEWSKI:** All right. How did you wind up at the Justice Department? That’s a—

**LEMOV:** I got tired of New York commercial law. My last firm in New York was a really nice lawyer. He was a single practitioner named Mitchell Salem Fisher. He was a divorce lawyer. He made a lot of money being a divorce lawyer. He had been a rabbi, which gave him entrée to a lot of people who had marital problems. {laughter} So, then he became a divorce lawyer. Mrs. Fisher was a psychologist. She was a big woman—big strong, woman. Mr. Fisher was really big, a bit heavy, but big. They got this steady flow of rich ladies and men who had problems with their spouses. He was making money. He had three associates working for him and a couple of secretaries. I actually began to bring in some business of my own, which was the first time I had done that—some business, some small companies and individuals. He was pretty impressed.

But I got bored with that kind of practice. So, I called the Harvard placement office. There’s Harvard again. They said, “Well, you’d like to do something different?” By this time, I had been out of law school, you know, six or seven

years. “You can’t go back to Wall Street. Most firms, they are not going to take a lawyer out of your class.” So, Harvard said, “The civil division in the Department of Justice is looking for a lawyer. Why don’t you go down and apply?” I did. I came to Washington. I applied. I got the job.

So, here’s a little more family history. I announced to my father-in-law, Raymond Morgenstern—my wife’s maiden name was Morgenstern. It means “morning star.” My wife’s name is not Marjorie. It’s Penelope, or Penny. So, I announced that to my father-in-law, who was a kind, good man. He was in the fur business, the mink business. He was pretty well-off. I said, “Ray, I’m thinking of a move with Penny to Washington to work for the Justice Department.” He said, “Now why would you want to leave New York? Why would anybody want to leave New York?” I kind of tried to explain it to him. Then I told my father what I was thinking of doing. He said, “Go to it, son. You’ll like it.” My dad always backed me, even if it hurt him. I am sure he knew he would miss me.

So, down to Washington we came, to work for the Justice Department. We settled in Southwest, in a little row house, with a white curved roof and big windows. The reason we settled there was my wife had just given birth to our daughter, so my dad came down with me the first time, to look for an apartment. I remember taking a cab from [Reagan] National Airport into the city. I looked across the Potomac, and there were these crazy-looking, white-roofed modern houses. I said, “Dad, look at that! Let’s go over there and see what that is.” It was River Park, in Southwest.

**KOWALEWSKI:** Okay.

**LEMOV:** River Park. So, that’s where we settled first, in a little apartment. I’ll never forget my first day as I went over to the Justice Department. I walked across

the Mall. It was a sunny morning, probably in late summer or early fall. I said to myself, “Well, if I never do anything else in my life, someone somewhere will always know this—that I worked for the U.S. Department of Justice!”

**KOWALEWSKI:** So, you more or less represented federal agencies, working in the Justice Department. Correct?

**LEMOV:** That was my exposure to a lot of federal agencies.

**KOWALEWSKI:** Right.

**LEMOV:** I was in the general litigation section of the civil division. Basically, we were the fire brigade. We would go in to oppose injunctions against federal programs. The programs that we got, where people were trying to shut them down or limit them, involved the Federal Trade Commission [FTC], the Legal Services Corporation, the Health and Human Services Department, in those days known as HEW [United States Department of Health, Education, and Welfare].

I really liked the civil division. Harland Leathers was the section chief. Carl Eardley was the assistant attorney general. Nicholas Katzenbach was Attorney General. It was the [Lyndon Baines] Johnson administration. [John F.] Kennedy had been assassinated a year or two before. Justice was a good place to work then, because of the new federal program of the JFK–Johnson years.

What would happen would be a U.S. attorney would say, “We’ve got this strange case seeking an injunction against the Legal Services Corporation on the grounds that it is providing unfair competition against the private bar in Tampa, Florida.” There’d be another case against it in some other part of the country, where they were asserting it was an unlawful exercise of Commerce Clause to set up a legal services office, or maybe a health-care program might

be unlawful too.<sup>4</sup> So, I argued those cases—one in Tampa, one somewhere up in New Jersey. I had a case for the Department of Transportation. They were building a tunnel under the Hudson River, and the railroad unions were trying to enjoin it—the Aldine Plan was the name of it. Maybe it wasn't unionized, or something like that. I won most of these cases.

I had one great case for the Federal Trade Commission, here in federal district court in Washington. The Federal Trade Commission had a practice of putting out a press release when they issued a complaint to commence a case. When they found that, let's say, Marlo Furniture was taking advantage of poor people by promising low prices and then switching them to high-priced goods—bait-and-switch tactics—the FTC sued to stop it and announced the lawsuit publicly. I had the case in federal district court here. I had very little supervision. Basically, Harland Leathers, my supervisor, once he trusted me and other lawyers, let us basically handle the cases ourselves. The local U.S. attorney was very happy to have our help, because we knew these programs. We specialized in them.

So, I went to the federal district court on Pennsylvania Avenue, and who was against me but Thurman Arnold, of Arnold & Porter. Thurman Arnold was an older man by then, but a famous New Deal attorney general or deputy attorney general. He founded Arnold & Porter, the big Washington law firm. Arnold didn't argue the case, but he sat next to the young lawyer that argued it. They must have thought they could win that case, if he came to court. But the judge was Alexander Holtzoff, who didn't brook any hot air. I mean, he was a tough little guy and a very sharp federal district judge. We argued against each other fiercely and then sat down.

Holtzoff heard everybody's arguments, didn't ask many questions. He said to his clerk, "Bring me in the following law books"—one, two, three, four—

about eight books. The clerk comes in with a stack of law books, puts them on the judge's bench. Holtzoff proceeds to dictate an opinion extemporaneously, with no outline, directly from the law books. It's perfectly outlined and worded. He throws out Arnold & Porter's case, point by point by point. Case dismissed, the government wins, you know. After the case, Arnold and his young partner came over to me and shook my hand. "Nice job," they said. So, I remember that.

Holtzoff, what a judge he was. You can't stop the government from warning people of deception. It is still good law. They were great experiences, in the Justice Department. They kind of prepared me for the future in terms of federal administrative law, to know how federal agencies worked.

**KOWALEWSKI:** Yes.

**LEMOV:** I had a case defending the Equal Employment Opportunity Act. I had a series of cases under the federal Renegotiation Act, which I think Congress ought to reenact. The Renegotiation Act was passed after World War II. Congress determined that the government really never knew enough about defense contractors to be sure that the price that they were paying was correct or fair. During World War II, there probably was an awful lot of slapping together of factories and throwing money at companies to get tanks and destroyers built. So, the Renegotiation Act lasted on into—when was it? I was there in 1964 to 1966. Okay. Thank you. You had the year exactly.

**KOWALEWSKI:** Yes.

**LEMOV:** But anyway, in renegotiation cases we actually tried the case. It was not a motion for an injunction. The Renegotiation Act was really a trial, with cross-examination and factual issues. The issue was, was the amount the government paid reasonable, or was it too high? Were they overcharged by

the contractor? The Renegotiation Act listed a lot of standards, like what's a fair rate of return, what was the efficiency of the contractor, what was the need? Great trials. I handled a couple of them. I won one and lost one. It was good law work. That was a great law. Because even now, it's really hard for the government to be as expert about some industries as the industry. So, I think it was a good law.

It was ultimately allowed to lapse by Congress. But it was based on a clause in the contracts which said that the contractor agreed, in exchange for getting government business—which was quite profitable—that the government could take a second look at its profits. If the profits were excessive, the government could order some portion of them returned. So, I got some money back, millions of dollars back for the government and for the people, I believed.

**KOWALEWSKI:** Well, that's great. We're running out of time on this CD. So, let's stop here, take a quick break, and then pick up.

**LEMOV:** Fine.

**KOWALEWSKI:** Because the FTC was coming under some hot water during your stay there and Nader's Raiders were investigating it and whatnot so, I want to see what you remember about that. We'll pick up in a few minutes.

### **END OF PART ONE ~ BEGINNING OF PART TWO**

All right, so we're back now, after a quick break. When we left off, we were talking about a few of the cases that you took when you worked at DOJ and your representation of federal agencies.

Now, one of the ones that you mentioned was the Federal Trade Commission. In 1969, Ralph Nader released his rather famous report, just

before the American Bar Association [ABA] investigated the FTC. So, it's kind of this convergence of investigation there at the Trade Commission. But Nader got together a group of Ivy League students, not unlike yourself, at one point, all from Yale and Harvard—maybe one from Princeton, I think—to come and, like I said, investigate whether or not the Trade Commission was doing its job. In the introduction to the report, he calls the FTC, quote, “A self-parody of bureaucracy, fat with cronyism, torpid, through an inbreeding unusual even for Washington, manipulated by the agents of commercial predators, impervious to governmental and citizen monitoring,” end quote.

Now aside from this rather florid language, what do you remember about this time? Because the investigation happened right at the tail end of your experience at FTC. So, I'm curious as to know, one, whether you remember this and, if you do, what effect that had within the FTC as it related to your role as a representative. I mean, they were trying to change drastically the culture at the Trade Commission. I'm curious what effect that had, as far as a legal sense is concerned.

**LEMOV:**

Well, at Justice I was aware of the Nader's Raiders investigation. As you note from reading that excerpt from the report, it was graphic and well written. It got a lot of press. So, I knew about it. The cases I had at Justice didn't really reflect the torpor that you describe, the dumping ground that the FTC was for political jobs, and its inactivity. I had two or three FTC cases, such as defending them against companies that sought to enjoin the issuance of press releases at the commencement of their proceedings. I was, really, defending the FTC. But I absorbed a little bit of this background and the criticism of “The Sleepy Old Lady of Pennsylvania Avenue.”<sup>5</sup>

**KOWALEWSKI:** Right.

**LEMOV:** So, there's no question that the 1969 Nader report, which a lot of people thought was, oh, just, "there goes Nader again. He's doing it again. First he did it with automobile safety."

**KOWALEWSKI:** *Unsafe at Any Speed*, right.<sup>6</sup>

**LEMOV:** His book *Unsafe at Any Speed*. GM [General Motors] made the mistake of trailing him with private detectives. The outcry about that probably helped get the auto safety bill through in 1965 or so. But here he's back again, with this young cadre of Ivy Leaguers and non-Ivy Leaguers. He comes up with this real grabber of a report. So, then the cooler heads in Washington decided they needed to—he was so powerful, they decided they needed to do a double check. I think it was the administration, the [Richard Milhous Nixon] administration, that asked the ABA to have Miles Kirkpatrick, an eminent Chicago lawyer, head up an American Bar Association commission to see whether there was anything to Nader's graphic negative description of what was going on there, and his statistics, too. Because Nader showed they [the ABA] brought many of their cases about trivial, insignificant things, like the Wool Products Labeling Act, instead of going after deceptive advertising and useless warranties.

In comes the Miles Kirkpatrick commission report. Lo and behold, it confirms pretty much what Nader said. "Yes, pretty much right"—in more sober language. But they agreed the FTC was focusing on insignificant and unimportant matters. Well, there's no question that those two reports fueled the Magnuson–Moss [Warranty] Act a couple years later, which I was involved with and which became, of course, a bloody battle in the Commerce Committees of both the House and the Senate. We can talk about it later when we talk about my days and years on the Hill.

**KOWALEWSKI:** Absolutely.

**LEMOV:** But I would say I was sensitized to the fact the FTC was a sleeping lion.

**KOWALEWSKI:** All right. And so, from the DOJ—do you have anything you wanted to share about the DOJ?

**LEMOV:** No, that's pretty much the highlights.

**KOWALEWSKI:** Okay.

**LEMOV:** Most of my time at DOJ was a very, very good training ground for me as an attorney in administrative law and some of the issues that were going on then. It just happened to come at a time when the consumer movement was beginning to flower in Washington.

**KOWALEWSKI:** Okay. How did you wind up on the National Commission on Product Safety?

**LEMOV:** That is a strange story. I have to digress.

**KOWALEWSKI:** By all means.

**LEMOV:** Well, okay. So, after walking across the Mall that day and saying, "Well, somebody will remember that Mike Lemov once worked for the Department of Justice," I settled down to the cases. With my wife and two children—we had a second child by then, named Douglas, who has just published a book of his own. Both my children have published books—Rebecca and Douglas—and my wife, Penny, is a journalist. Seems to run in the family, although my children and Penny are way ahead of me.

Anyway, so there's my wife Penny, who is a writer and journalist, and the two children, and we lived in the little white barrel-roofed house at River

Park in Southwest, Washington. I was working along in Justice and traveling around the country a bit. I handled branch banking cases way up in Butte, Montana, and I was down in Florida, defending the Legal Services Corporation. I was enjoying my career there, had no intention of leaving. They actually asked me at Justice to commit for four years. I sort of gave them a verbal, "Yes, sure. It sounds good."

But here it was, only two years later. One Sunday afternoon in the fall—I guess it was 1969 or '70. A fellow who lived next door to me was Mike Pertschuk. We knew each other. We liked him. We socialized now and then, with him and his wife. He had two young children, and we had two kids. It wasn't a really close relationship, but Mike and I chatted a bit about sports or politics now and then.

**KOWALEWSKI:** You lived next door.

**LEMOV:** Flush up against each other in the little barrel-roofed town houses.

**KOWALEWSKI:** That's—wow!

**LEMOV:** Talk about coincidence. In addition, my wife's father and Mike's dad knew each other through the fur business in New York.

**KOWALEWSKI:** Yes. Talk about coincidence!

**LEMOV:** The role of luck in life. Like my telephone call to the Harvard placement office when the civil division just happened to be looking for a lawyer.

**KOWALEWSKI:** That's something else.

**LEMOV:** Okay, now there's Pertschuk living next door to me. I knew he worked on the Hill. I guess I knew he worked for Senator Magnuson. But I had no idea

what he did. So, we're watching a football game one day. Maybe there's time-out. Mike turns to me and says, out of the blue, no lead-up, "How would you like to work for a little study commission we're setting up?" I said, "What kind of commission is this?" He said, "Well, it's a commission on the safety of household products." So, I said, "Well, you mean like brooms and mops." He said, "Something like that. But we're going to change the name. The Association of Home Appliance Manufacturers [AHAM] has suggested we give a little sexier name to it. So, we're going to call it the National Commission on Product Safety."

Well, that sort of perked up my attention a little bit. Then I said, "You know, I'm not really sure, because I love working at Justice and," you know, "I don't know anything about product safety." He said, "Well, okay." I guess he mentioned the salary. I don't really think I asked him what it paid. The number he mentioned was double what I was getting at the Justice Department—double. Well, anybody that can double their salary in one fell swoop, with two young children you've got to think about it. Ultimately, I accepted the offer. I'm sure that AHAM is still kicking themselves around the room for suggesting this new name, the National Commission on Product Safety.

Anyway, Pertschuk said to me, "Well, I can't tell you what will happen but I'll give your name to Arnold [B.] Elkind," whose name had just been sent by Magnuson as the nominee, to President Johnson, to be the chairman of this two-year study commission. Two years, two million—to look into the problem of product safety.

Now, we have to go back a step here, to know that when Nader caused all the furor about automobile safety with *Unsafe at Any Speed*, and with the private detectives trailing him, Senate Commerce, with its larger and more

entrepreneurial staff than the House, under Grinstein and Pertschuk, began getting a wave of complaints about other products. Whether they were refrigerators, toasters, kids' toys, athletic equipment, lawn mowers, power tools, you know, housing wiring, parts of a home, or similar products. They didn't know what to do with these letters. They were all piled up in a big heap. Pertschuk says, in his book [*Revolt against Regulation:*] *The Rise and Pause of Consumerism* that the issue wasn't ripe for a bill yet because it was just diverse, dozens of products, all over the lot.<sup>7</sup> Nobody knew what to make of it. The public had no idea there was a safety issue. So, Magnuson and Pertschuk conceived the idea, and Grinstein, probably, too, of a national commission, to sort of generate interest in the product-safety issue. It was around that time Pertschuk said to me, "How would you like to be general counsel?"

**KOWALEWSKI:** So this must have been 1967, 1968? And so—

**LEMOV:** The commission actually started in '70. But this must have been '69, I guess.

**KOWALEWSKI:** Okay.

**LEMOV:** It could have been '68.

**KOWALEWSKI:** The final report came out in '70.

**LEMOV:** Oh, it did?

**KOWALEWSKI:** Yes.

**LEMOV:** I'm sorry. In that case, it was 1967.

**KOWALEWSKI:** Yes. That's—

**LEMOV:** Right. Thanks.

**KOWALEWSKI:** Johnson appointed the commissioners in 1968.

**LEMOV:** Okay. Then it was 1968, because Elkind was already under consideration. Shortly before Elkind was confirmed. Pertschuk probably talked to me before Elkind was confirmed. Because there was a pause there of a few weeks or maybe a month before I actually met Elkind.

Well, I started boning up on the law, studying like mad, like for a law school exam, to figure out what is this stuff all about. I read the Federal Trade Commission Act and the Refrigerator Safety Act, which was a little nothing-kind-of legislation and—oh, there was something about flammable sweaters tacked onto the Federal Hazardous Substances Act. But it was all very piecemeal. There were huge loopholes between these few federal efforts to give a basic level of safety protection to consumers. I didn't hear anything for a while. Then Pertschuk called and said, "Go see Elkind to interview for the job." So, I was really, by that time, ready to go. I was briefed and had spent a lot of time cramming. So, I went over to see Elkind.

**KOWALEWSKI:** Was he in D.C. at the time?

**LEMOV:** Yes, he came to D.C. from New York.

**KOWALEWSKI:** Okay.

**LEMOV:** His office was located in New York City. He was a plaintiff's trial lawyer, which means he was sensitive to injuries to people. There was a little building next to the Gaslight Club, on 16th Street, facing a big hotel, I guess it's the Hilton. The Gaslight Club is long gone. This thing was like a large tenement, about eight stories high, a very narrow building. The national commission had one of the floors. I remember that later on there was another commission on another floor below it, the one on pornography, which never really did

make an impact. I mean, its report was sort of interesting reading, that's all. The national commission's report was different. There was a saying around Washington that when you want to shelve a problem, appoint a commission, and that the report would come in, and Congress would read it and file it, and it would gather dust on the shelves. It did not happen with NCPS.

Back to my story about Elkind. I walked into the room. It had a carpet. It's a little room, a nice room, two windows overlooking 16th Street. No furniture, just Elkind sitting on a chair, with a telephone table in front of him and this one other chair in front of that. I was nervous. So, I went and sat down. By this time, I really wanted the job. Because I had read a little of the law. I had picked up the flavor of consumer protection, and the money sounded good.

So, after a couple of pleasantries, Elkind said to me—I'm ready for the tough questions now—He said, "So, I understand Senator Magnuson wants you to be general counsel of the National Commission on Product Safety." Silence. "I didn't really know that, Mr. Elkind," I said. "But if he does, that's fine." So, he said, "Well, when can you start?" That was the interview! There was no real interview. Pertschuk selected me. Or maybe Magnuson.

**KOWALEWSKI:** Had you met Magnuson beforehand?

**LEMOV:** I never met Magnuson until later.

**KOWALEWSKI:** Okay.

**LEMOV:** I think I might have met him once or twice, years later. But Pertschuk was Magnuson in this case.

**KOWALEWSKI:** I was going to say. I guess that speaks to his influence or, I guess, his ability to—

**LEMOV:** He had it. It speaks well of Magnuson's genius at delegation, with his huge legislative portfolio, and the power of the staff and the power and ability of Mike Pertschuk. Mike didn't throw his weight around. You didn't know, you didn't know what kind of power he had.

I was appointed general counsel. I was sitting at Justice when a letter—couple of weeks later, this letter comes from the White House, on White House stationery. I wish I had a copy of that letter. It said, "Please delegate Michael Lemov as general counsel to the national commission, pending the appropriation of funds. Thank you, assistant to the President" somebody. Maybe it was [Joseph A.] Califano. I don't remember. Man! It went to the Attorney General's office, down to the deputy's office, down to the civil division, down to the section on general litigation. It had all these official stamps and signatures on it. {laughter} I was over to the offices of the National Commission on Product Safety the next day. Government works fast sometimes. Government can work like that. But that is how I wound up as general counsel to the commission—it was chance, pure chance. Or else Pertschuk noticed me, for some reason. Whatever.

**KOWALEWSKI:** So, what were your day-to-day routines? I mean, there were some pretty elaborate national hearings set up in Los Angeles and New York City.

**LEMOV:** Correct.

**KOWALEWSKI:** And we'll talk about those. But prior to that, prior to setting up those hearings—what did you do in your first few weeks, your first few months? And then, so on.

**LEMOV:** Well, it was a seven-member commission. The commissioners were picked from all over the country. There were four Democrats and three Republicans. Are you listening, Federal Election Commission? There should be a majority

of somebody, one party or the other, so you can do something. So, there was a majority. Because the Democrats were in power, Johnson appointed four commissioners. The Republicans had three. There was an authorizing statute which Congress passed, setting up the commission, which provided for the 4:3 ratio.

In the first few days, we waited for the furniture to arrive. Once we got the furniture, we began staffing. There was a sort of a tension in the commission between the HEW group, who were epidemiologists and people who studied diseases and ratios and numbers, and the lawyers, who were basically me, a youngster named Stuart Statler, who Elkind recommended and we hired, and one other young guy, named Ted Giatina, who I hired from the Justice Department. That was basically it, three lawyers—Ted Jacobs was a lawyer there too, there were four of us. We basically ran the entire show. The numbers people did not, mostly because of Arnold Elkind.

**KOWALEWSKI:** Right.

**LEMOV:** Because Elkind, being a trial lawyer, was in Washington quite often. He basically delegated to me the planning of how we were going to do our investigation. Something made me decide that it ought to be done by public hearings, by a series of hearings—not done by going and interviewing people and quietly compiling a report, but it ought to be keyed to trials, hearings—like a lawsuit. Something made me and my associates think about using injured people as witnesses. It was really Elkind and me. Later on it was Elkind and me and Stuart Statler, who became a power in the commission and later on was with Senator Charles [Harting] Percy. Later, he was a commissioner of the Consumer Product Safety Commission [CPSC]. So, Stuart was definitely influential and very helpful and very smart. I'm going to

visit him in North Carolina, in about a month. I suppose Arnold Elkind has gone on to his reward.

What happened was, the lawyers ran the commission. What we did is, we set it up. Here was the theory: let's bring in a victim. Every hearing started with a victim. Then let's show the product, if we could, visually. Then let's have the industry come in and tell us about whether they think it's a problem or not. Then maybe we'll have the government—if there was anybody that knew anything about the problem—come in and answer.

Well, for some reason or other, the press picked this up from the get-go. The *New York Times* assigned David Burnham, one of their best reporters. Then the *Washington Post* assigned Morton Mintz, absolutely the most effective investigative reporter they had. He has since written several books on corporate accountability in various areas. But Mintz traveled around the country with us. So did the *Times* reporters. AP [Associated Press] sent a reporter. We got all kinds of coverage for the national commission. The *Washington Post* covered it often in Section A, with photographs. All our hearings were covered. The hearings were intended to illustrate various areas where there was a gap in federal regulation.

I particularly remember a couple of them. One dealt with unsafe football helmets and concussions that the athletes were suffering from having these cheap, untested, poorly designed helmets. The kids were wearing them. So, what we did is, we decided we'd bring in a pro football player to start the hearing. We had Larry Csonka, who was a fullback for the Miami Dolphins, probably one of the leading runners in the game at the time. He came in and testified how he had gotten a bad concussion from wearing a pro football helmet. He held up what he thought was a better design, with inflatable padding around it. I don't know what they wear now, but that got great

coverage. Once he testified, the rest of the hearing was kind of routine. I mean, there was nothing the helmet makers could say except they were working on better helmets. That was a big hearing.

Then we went out to L.A., and we had a hearing on swimming pool safety. That's still a big issue, for a variety of reasons. Congress just passed a statute in 2008 about the safety of pool drains, where apparently kids' hair can get caught in the drain of a pool, and they can get trapped underwater. Two years ago, actually, a bill passed and enacted major amendments to the Consumer Product Safety Act, including swimming pool safety.

Something happened at the hearing on pool safety which affected me a lot. Elkind let me lead the questioning, as did John [Emerson] Moss, often, which is unusual on the Hill. I don't know why. Many chairs would lead off with their own questioning and their own statements, and they would sort of dominate the hearing. But these hearings were really about detailed facts. They were combative because we had industry answering. They had very good testimony. They had data. For whatever reason, I led off the questioning in many of the commission hearings.

This particular one involved the swimming pool industry. The victim was a quadriplegic. He was wheeled into the hearing room in a wheelchair. He had struck his head on the bottom of the pool, which, instead of going straight down on the side, was a curved pool, and wasn't marked properly as to its depth, or maybe it was just a bad design. I wonder whether they still make that kind of pool. I doubt it. But after he testified, the National Association of Swimming Pools [National Swimming Pool Foundation], whatever the exact name was, I don't recall, testified that the witness hadn't produced any data, any suggestion or indication that his injury wasn't just an oddball, you

know, an outlier, a freak. They didn't really produce anything themselves, which was a big mistake. They just basically attacked the witness.

When I was called to question them, I really became angry. I remember I was boiling. I remember starting the questioning. "How dare you criticize this paralyzed consumer when you haven't brought any data in yourself, at all? What data do you have? It's your product! Have you compiled any data on accidents?"

And luckily—I didn't know the answer to the question. They could have said, "We have this whole volume right here, Mr. Lemov. There are none."—but they didn't have any statistics. Phew! I violated the first rule of cross-examination. {laughter} Never ask a question to which you don't know the answer. I didn't know the answer, I guessed. But they said, "Well, we haven't done any studies yet. But we'll certainly be glad to do some." But, man, that hit the newspapers all over the country.

I remember Elkind looking proudly at me, as in "way to go." It was a complimentary look from a very good trial lawyer. He liked it. Then Morton Mintz of the *Washington Post* came over and asked "How do you spell your name?" So, that was two of the hearings: the football helmets, swimming pools.

Here's one more. Over in the Senate Commerce hearing room—Magnuson lent us his hearing room, and we had a hearing on unsafe lawn mowers. You may remember, in those days—I don't think you remember. But you may have read about this. You could buy a cheap little lawn mower that didn't really have any guarding around the sides. I mean, it's just this thing sitting out there with a big blade whirling around. Nothing trailed behind it that would block things being thrown at the operator. It didn't have a deadman

switch. So, you could step away from the handle, go around and try to clean the leaves off, and stick a hand under there, and some people did. It's hard to believe. Or it would roll away from down a hill and run over somebody. Now there's a deadman switch, so the minute you let go of the handle, the mower stops. But I remember that we had graphic examples of lawn mowers shooting wire or glass or rocks at the operator, or running over somebody.

I remember we had a Consumers Union engineer testify as to how mowers could be designed safer. He put the lawn mower right up on the hearing table in the Senate office building. Of course, the cameras flashed. He pointed out what was wrong with it. So, that was an example of the national commission hearings. They were: bring in a victim, try to show some scope or commonality of problems. We'd call the industry in to answer, and usually they didn't really have any good answer.

A couple interesting things then happened. One is, we wrote a bill, a draft, bill and we put it into the back of the report. That was pretty unusual. I don't know how that happened. I'd like to think that it was my idea, along with Elkind and Stuart Statler. But who knows? Anyway, we wrote a bill. The NCPS bill turned out to be a large part of the Consumer Product Safety Act of 1972. Not all of it, but much of it.

And then, while the commission was functioning, it was a study commission. It had subpoena power, by the way, which is important for a study commission. Other study commissions, before and since, appointed by Congress, have sometimes been given subpoena power. Without it, they're toothless. So, the commission actually functioned to change things immediately.

While we were doing this investigation and subpoenaing some data and some witnesses, an actual case arose of fires in television sets. I think it related to Magnavox television sets. They were catching fire in people's living rooms. It was apparently a quality control problem. There were quite a lot of house fires caused by TV sets. The commission got into it. We wrote up some information on it. Then Elkind did something really major. He called in all the manufacturers of television sets to a meeting at the Statler Hilton Hotel, right across the street from the commission. He said—you know, we weren't a congressional committee, we couldn't write legislation—but, "We want you to do something about these fires in the TV sets." There was a lot of press on it. I guess maybe he suggested that we might ask Congress, in a special report, to do something about it.

So, the manufacturers huddled and came back and said, "Yes, we'll develop an industry standard to increase the flame retardancy of television sets." That made the press. So, the NCPS had actually achieved something concrete and permanent before it even sent its report up to Congress. I go into this a lot more in my book on this series of investigations.

There was the poor kid who drank furniture polish that smelled so sweet and nice. It had petroleum in it, and it killed him. And the girl that was blinded by an exploding soda bottle. They're described in one chapter in my book called "Consumer as Guinea Pig." The book is about that era, the 1970s and about one of its great leaders, John Moss. It's called *People's Warrior: John Moss and the Fight for Freedom of Information and Consumer Rights*.<sup>8</sup> If the rivers don't rise and the bridges hold, it might get published next year.

{laughter}

**KOWALEWSKI:** Well, that's great. You know, as we were talking about earlier, most of what we know about this period is about the Senate, in particular, and its influence, and Senate staff and the independence of the Senate staff—

**LEMOV:** Right.

**KOWALEWSKI:** —and the leadership of Magnuson and whatnot. So, you know, what we're hearing now is great. But I have a few other questions about the NCPS.

**LEMOV:** Go ahead on that. Then let's talk a little bit about the Senate's leadership and how that came over to the House.

**KOWALEWSKI:** Sure.

**LEMOV:** Okay?

**KOWALEWSKI:** No, that's fine. Yes.

**LEMOV:** Go ahead on NCPS.

**KOWALEWSKI:** How is that you selected witnesses? So, you mentioned the poor boy who dove into the pool and broke his neck. His name was William C. Watson. The tragedy of that case made national headlines. I was kind of curious how it was—the staff that the commission had wasn't that big.

**LEMOV:** It was very small. Four lawyers planned all the hearings.

**KOWALEWSKI:** I mean, when the report was published, there were 44 professional staff still on with the commission. Those people worked in a variety of roles. I'm kind of curious how it was that you decided to select Larry Csonka, how it was that you decided to select, you know, William Watson, and—

**LEMOV:** Well, we had—we broke the commission's staff into three task forces. Bill White, who was executive director, and myself, as general counsel, broke it up into three task forces. One was epidemiology. They were out there getting the data.

**KOWALEWSKI:** Okay.

**LEMOV:** There was another one on voluntary industry standards, which were usually weak or ineffective then. Their job was to basically shoot them down because we didn't think they were successful. Some of them were okay. Some of them did something modest. But they were too weak.

Then the third group was the legal staff, which did the planning for the hearings and the witnesses and setting up and locations and the press too, although the press followed us. We didn't have to do much. It was never so easy, getting the press interested. That's something we need to talk about down the road—about the role of a free press, an active press, what has happened to it in these last 35 years.

So, how did we pick the witnesses? Well, myself, Ted Jacobs, Stuart Statler, Ted Giatina—four of us—we first of all looked at products that appeared to be a problem, like vaporizers that toppled over and scalded kids, or plate glass windows, floor to ceiling, in some of the modern houses which were not made of tempered safety glass. Then the staff looked through the cases, lawsuits. That's the way we would do it—work backwards from the lawsuit, find the product, then look up the case reports and names.

If it wasn't for the tort system, with all its issues and problems, we probably wouldn't have found a lot of these victims. Some of them were sent to us by the FDA [Food and Drug Administration] or by the Department of HEW,

and maybe some by state agencies. But I really think the hearings were trial bar-oriented.

**KOWALEWSKI:** Okay.

**LEMOV:** Plaintiffs' lawyers were very supportive of the commission. They thought it would generate a lot of business for them, to put it in a crass way. They might have also seen a lot of the victims and been touched by their plight, if you look at it the humane way. Who knows? Whatever it was, we had our lines to the trial bar and maybe to some federal or state agencies who gave us information. People just called us once we became known.

**KOWALEWSKI:** Okay. You just mentioned the importance of the press and how it actually followed you and you had some major, major reporters that tagged along to these hearings. One of the commissioners himself was a member of this press, at one point, Sidney Margolius.

**LEMOV:** Good point. I'd forgotten Sidney Margolius.

**KOWALEWSKI:** And Sidney, he became famous for early consumer protection measures. I mean, there is this great story about how he and his wife would sit at home, and they would dissect microwavable dinners and whatnot that claimed that they had peas and carrots and mixed vegetables in it. At one point, with a tweezer or something like that, he picked out one pea out of a chicken potpie or some other microwavable dish that claimed to have included peas in it.

So, part of his agenda was to kind of show where consumers were being swindled. When he died, in 1980, I believe it was the *New York Times*, in their obit, said that the lawyers on the commission benefited a lot from his experience. I want to get your reaction, seeing as how you were the chief lawyer, what you remember about Sidney Margolius and his role, in general.

**LEMOV:** He was kind of subtle, not a loud or pushy guy. He was—I remember him as a little bit aging, in those days, and little bit round and sort of roly-poly. I also remember he had a wealth of knowledge about consumer abuses. He had written a book, I believe, called *The Innocent Consumer vs. the Exploiters*.<sup>9</sup> The title alone suggests the thrust and his passion. I wouldn't title a book that way myself, now, because it sounds so one-sided. But Margolius, despite his mild manner, had a fire in his belly. He saw the problems. He was a great help. I do think he probably put us on to some things. Remember that Mike Pertschuk was also a member of the commission. This is very unusual, to put a Senate staff member on the federal commission. I just think Magnuson was keeping an eye on it, to make sure it did what he wanted it to do.

**KOWALEWSKI:** That was my next question. Having Pertschuk—

**LEMOV:** Yes.

**KOWALEWSKI:** —on the commission, did that influence at all the way the Senate responded to your final report, the way you communicated messages to the Senate? There was no hearing in front of the House, from what I can remember. The final report was just—you went in front of Magnuson's committee. Senator [Norris H.] Cotton was there as well. So, I'm kind of curious to hear more about what you said about Magnuson keeping an eye on the commission, especially given the freedom that he gave Pertschuk on the committee.

**LEMOV:** Funny. Pertschuk gave us the same kind of freedom he apparently got from Magnuson for the commission.

**KOWALEWSKI:** Did he?

**LEMOV:** He was on the commission, but he was basically watchful. He was very supportive of what we did. I did talk to him now and then. My recollection

is, we talked a bit about where we were going and what we were doing. But he had, and Magnuson must have had, some confidence in us. We really had a long leash. He didn't really have to watch us much because, between Elkind, Margolius, and me, we knew what we wanted. We wanted a federal consumer product safety law and ultimately an independent consumer safety agency. We just went out after it. They gave us a really long leash.

But when—there was a point where Nixon took over. Johnson lost—no, Johnson didn't run again, and Nixon narrowly defeated [Hubert Horatio] Humphrey [Jr.]. So, we had a Republican President. He could have terminated the commission. He could have cut off our money, and that would be the end of it. But that's where Magnuson and Pertschuk came in.

The Senate talked to the White House. They must have agreed that this commission should be allowed to continue its work. That's the first thing. Secondly, when the report was sent up, that's when Pertschuk and Magnuson really did their work. They accepted it at a Senate hearing. They introduced a bill. Funny, the bill they put in later was very different from the NCPS bill. I guess maybe they wanted to show their independence. {laughter} John Moss in the House put in a bill identical to the commission bill. The Senate put in a really unusual bill. It was just different. But the thing is, it moved in the Senate. It moved.

The House was different. I think it's fair to say that the House, when I arrived there in 1970, was the graveyard of consumer legislation. Maybe that's why there was no hearing when the report came up there. That's maybe why Magnuson took the lead. You could argue that the commission was essentially an arm of the Senate Commerce Committee. We didn't function that way. We had complete freedom to do what we wanted. Maybe too, that is why John Moss on the House Commerce Committee knew about

me when I called him and asked for a job when the commission finished its work.

**KOWALEWSKI:** That's really interesting.

**LEMOV:** Here's one more thing I was going to mention, about the commissioners. Margolius, Pertschuk, and Elkind were three pretty liberal Democrats, and there was a guy named Emery Crowfoot, who was a city attorney from Portland, Oregon. He was a Democrat also. But the three Republicans were by no means polarizing. They were Republicans who saw that there was a role here for the federal government, and they just wanted to make sure it was fair, that a fair hearing was given to industry and that the statute was reasonable.

They were Hugh Ray, from Sears, a big retailer—notice, not a manufacturer—and Henry Hill, a gentleman from Boston who was with a testing laboratory, and another gentleman, Dana Young, who was with Southwest Testing Laboratories [Southwest Research Institute], I think that was their name. But they were a major testing laboratory. So, there was no manufacturer on the NCPS—unless you consider Sears a manufacturer. You could argue that the commission should have had a manufacturer on it. But that's the way Magnuson and Pertschuk set it up. I believe they did set it up.

**KOWALEWSKI:** Okay.

**LEMOV:** The Republicans clearly appointed their own people. Why they didn't put a manufacturer or two on it, I don't know. Norris Cotton of New Hampshire probably had the last word for the Republicans. Norris Cotton was a pretty moderate Republican. I understand he worked pretty closely with Magnuson.

**KOWALEWSKI:** Now the final commission report is surprisingly readable for a government document. I was curious as to know what kind of role you had in writing it. Because it's clear, it's concise, and it says what it needs to say right off the bat, without a lot of jargon.

**LEMOV:** And it's short.

**KOWALEWSKI:** It is.

**LEMOV:** It's a short report.

**KOWALEWSKI:** Relatively short, yes.

**LEMOV:** It had a lot of graphs and charts in it.

**KOWALEWSKI:** True. It's a little over 100 pages, but a lot of that was taken up by graphs and charts and whatnot.

**LEMOV:** I can't remember who actually—oh, we hired a writer to polish it, lovely man. The staff wrote the report.

**KOWALEWSKI:** Okay.

**LEMOV:** So, the readability has to be credited not to the lawyers on the commission, but to our writer. {laughter} We gave him the ideas, the basic text, and the material. He picked up the same theme as the hearings. Clearly, the report follows—the dirty dozen—follows the same theme as the hearings, and the lack of adequate voluntary efforts, the fact that the tort system is not an adequate protection, the listing of the products, and the description of the injured people. It all follows the hearing pattern. The hearings set the tone for the report, and so keeping it brief and readable was obvious. I don't know whose idea that was, but it certainly was a good idea.

**KOWALEWSKI:** Now at the same time, in the House, the Government Operations Committee had put forth a bill, sponsored by Benjamin [Stanley] Rosenthal from New York and Congresswoman Florence [Price] Dwyer, a self-styled progressive Republican. Now in putting together the hearing report—and the commission report, and in doing the hearings, did you pay attention at all to what was going on on the House side? Do you have any memories of this bill and how it was—it had bipartisan support in Government Operations. But I was kind of curious as—

**LEMOV:** I don't have any memories of any contact with anybody on Rosenthal's staff or Florence Dwyer's staff—Florence Dwyer?

**KOWALEWSKI:** Florence, yes.

**LEMOV:** No. I think that basically that was a jurisdictional move by Government Operations to try to lay claim to legislation. It did not succeed.

**KOWALEWSKI:** Okay.

**LEMOV:** No wonder Moss was a little bit annoyed at Rosenthal at that time. I remember that. But he nonetheless gave Rosenthal 100 percent backing on the Consumer Protection Agency legislation, which was what Rosenthal had after product safety went through. But that is a long story, about that bill. We can talk about that later. Actually, what you just told me is the first time I've heard—at least, maybe I knew it then—first time I have heard about the Rosenthal–Dwyer bill. And, no, we did not react to it. Perhaps we noticed it, but we probably didn't really take it seriously because we understood it was going to House Commerce.

**KOWALEWSKI:** What was the public reaction like to the commission's final report and to the hearings, in general? Was there a lot of outcry? Magnuson gave it just tons of

praise. The press, obviously, followed it around. So, I'm curious as to what you remember about the public reaction to this. I mean, this is the first time that an investigation of this magnitude had been, you know, undertaken.

**LEMOV:** I wish I could say that people marched in the streets, down on 16th Street or even that they crowded into the Gaslight Club, which was our next door neighbor. The hearings were well attended. Surely the fledgling consumer movement, Consumer Federation [of America], and maybe Nader's groups had some people there and testified. The press covered it. People on Capitol Hill probably read all those articles. When the report got to Capitol Hill, it was already well known. But I can't say that the American public pushed this bill through from a grassroots movement. This was top-down. This was Congress leading, to the Senate and ultimately the House. It took a while for the House to get going. But this was leadership from the elected Representatives and Senators, not a grassroots push from the bottom.

**KOWALEWSKI:** Okay.

**LEMOV:** There was some television. I mean, Elkind was probably on TV. Well, later on, when we had the first hearing in the House, we had six or eight cameras. So, clearly, television got interested. But we could get into that later, when we talk about the House and the Senate.

**KOWALEWSKI:** Yes.

**LEMOV:** But, no, there wasn't any grassroots push that I could see.

**KOWALEWSKI:** Okay. That's really all I had on the agenda for today. You wanted to talk about the—we can save this for a later discussion, especially, because I'd really like to get your opinions about the bicameral, so to speak, relations between the House and the Senate Commerce staffs. We can save that for a

later date. Or you mentioned it, just a little bit ago, that you wanted to talk about the freedom that the Senate staff had and Magnuson's relationship.

**LEMOV:** Well, we could. I really observed that more when I got up to the Hill.

**KOWALEWSKI:** Okay.

**LEMOV:** If you do it chronologically, you've pretty much covered it until I tried to follow the bill to the House Commerce Committee.

**KOWALEWSKI:** Yes.

**LEMOV:** At that time, I still was, really, focused on the study commission, on the investigations, on getting the bill up to the Hill. Oh, and then something interesting happened—how I got to the Commerce Committee. I was out of a job, after those two years. I didn't know what I was going to do. They were not beating down my door with offers for a corporate lawyer. So, I called Moss myself. He said, you know, "I'd like to hire you, but I have no slots. Harley [Orrin] Stagers [Jr.] will not allow us to hire. All our staffing is done by the full-committee staff." So, he said, "I'll work on it. I'll talk to Harley, and I'll get back to you." So, that was it, no job with Moss, following the bill up there, which was what I wanted to do.

So, then a lobbyist who followed the hearings—here's another quirk of fate. A lobbyist who followed the hearings, Wayne Smith, I think his name was, came into my office one day and said, "Hey, why don't you go up to the Hill?" I said, "I'm trying, but there's no room up there." He said, "Well, go see [John William] Wright Patman's chief of staff, Baron Shacklette." That's how I heard about Shacklette, from a very nice lobbyist. I called Shacklette and he said, "Come on up here." And so, my route to the Commerce

Committee took a detour and went to the Banking and Currency Committee first and to Wright Patman. That's another story.

**KOWALEWSKI:** Well, I think we should pick up there next time. Well, this has been great.  
Thanks, Mike.

**LEMOV:** Thank you. Great memories for me, too. {laughter}

—MICHAEL R. LEMOV—

INTERVIEW TWO

**KOWALEWSKI:** This is Abbie Kowalewski from the Office of History and Preservation, U.S. House of Representatives. Today's date is December 22nd, 2010, and I'm here in Cannon 247, just off the rotunda. I'm here today with Mike Lemov for his second interview, to go over his time spent with the House Banking Committee as well as his work as counsel for the Commerce and Finance Subcommittee of the Interstate and Foreign Commerce Committee.

So, Mike, thank you for joining us again today on December 22nd. I figured for the first part of the interview we'll, of course, move chronologically, and we'll talk about your time spent on Banking with Wright Patman. It was brief, but I think it's going to be pretty informative.

So, to start, we left off last time, and you had just finished your time with the National Commission on Product Safety, and you were looking for work, essentially. You said you called [Representative] Moss—just straight-up called him—talked to him, said he had no room, partly because [Representative] Staggers had to approve all the hires, which we'll talk about in a little bit. Then you talked to another lobbyist, who said you should talk to Wright Patman's AA [administrative assistant].

I want to hear a little bit more about this transition—how you landed the job with Banking. Had you met Patman before? How did you meet Moss prior to calling him up on the phone?

**LEMOV:** It is surprising. I had not met Patman before. I first met his AA, who was Baron Shacklette.

**KOWALEWSKI:** Shacklette, right.

**LEMOV:** Yes, that is right. I had not met John Moss either, before I called him on the telephone. Apparently, holding hearings that get a fair amount of coverage on what Congress viewed as an important subject—consumer protection and product safety—had somehow sensitized them to who we were. But I certainly got a very warm reception from both John Moss on the telephone and from Baron Shacklette, and then Wright Patman at the Banking Committee.

**KOWALEWSKI:** Okay. Okay. Had—oh, go ahead.

**LEMOV:** Would you like me to tell you about how I met Baron Shacklette—my first meeting with him?

**KOWALEWSKI:** Yes, absolutely.

**LEMOV:** This may be interesting.

**KOWALEWSKI:** The more the better.

**LEMOV:** A lobbyist, who I recall was Wayne Smith, came to see me. Wayne Smith was a gentleman who I never saw again. I really don't recall having much to do with him during the two years of the National Commission on Product Safety. I assume some corporation or trade association hired Wayne Smith to follow and monitor the activities of the National Commission on Product Safety. But they never disclosed their name, and Wayne Smith never told me who he represented.

One day, when I was about to be out of a job—I guess it was 1969, just after we had finished our final report and sent it up to the Hill and the White House—Wayne Smith walked into my now-rapidly-emptying office.

{laughter} He asked me what I was going to do now. I said I was looking for a job.

So, he said, “Well, try Baron Shacklette, Wright Patman’s AA.” I might add that after two years of investigating unsafe products as general counsel of the National Commission on Product Safety, no corporation, trade association, or law firm offered me a job or even an interview. {laughter} There may have been a recession then, or it may have been that I was a hot potato, or maybe I just needed to look a little bit harder. I don’t know. But there I was, looking for work. Well, I had called Moss first, and you correctly recall that he said, “Yes, I want you to come to work for me, but I can’t put you on the staff because the committee chair, Harley Staggers, will not authorize any staff for the subcommittees.” Zero staff for these five major subcommittees. There was, of course, staff for Staggers’ committee—for the Oversight and Investigations Subcommittee, and for the full Commerce Committee.

**KOWALEWSKI:** Yes, a big staff too.

**LEMOV:** Yes, for the Oversight and Investigations Subcommittee, particularly. And, in fact, that big staff is, in part, what got Staggers into trouble later.

**KOWALEWSKI:** Okay.

**LEMOV:** The trouble with the members of his own committee came in a few years. But Moss had no staff when I called. So, I said goodbye and sadly went on looking for a job. Well, after Wayne Smith had left my office, I called Baron Shacklette. He said, “Come right on up.”

I remember the meeting vividly. Shacklette was a short, burly guy. I found him very friendly and easy to talk to. We spent at least an hour talking. He was intimately familiar with the work of the national commission, and my

work, too, despite the fact that Banking and Currency did not have any jurisdiction in the area. I think good professional staff on the Hill just kind of knows what is going on relating to the House and Senate in general. And, of course, we were in the *New York Times*, the *Washington Post*, and other newspapers quite a lot. So, the national commission had made an impact.

Anyway, Shacklette, during this conversation, told me that he had been with Wright Patman for a long time, that Patman and he had a close relationship. Somehow or other he showed me—he opened up a closet door where he had a holster and what looked like a .45 pistol hanging there. He said, “You just never know who’s going to walk in here.” He said, “That’s why I keep it here, to protect the chairman.”

**KOWALEWSKI:** Wow.

**LEMOV:** In all my days on Capitol Hill, I never saw another AA or LA [legislative assistant] or chief counsel with a gun. But Shacklette had a pistol. He lived down in Southern Maryland and might have been a hunter. He was a very interesting man. He was Patman’s top man for many, many years. At the end of the conversation—the only conversation I had had with him up to that time—he said, “Well, let’s go to talk to Mr. Patman. I want to get you in there before some guy with a big 10-gallon hat from Texas comes in and grabs this job.”

By the way, the job was staff director of the Subcommittee on Foundations of the House Small Business Committee.<sup>10</sup> Patman’s empire was not only Banking and Currency, of which he was the full-committee chairman, he also had a subcommittee. At that time a full-committee chairman could also have a subcommittee on another committee. So, he had a subcommittee on Small Business, the Small Business Committee. He had a counsel named Howard

Greenberg. I was the staff director of a subcommittee. So, okay, I'll tell you in a minute what the subcommittee did because it's interesting.

So, Shacklette takes me in to the office of the chairman of the Banking Committee, Wright Patman. He introduces me to Patman, "Mr. Patman, this is Mike Lemov. He's the guy that ran that product-safety study commission for Senator Magnuson. He's going to be your new staff director of the Foundations Subcommittee." Patman said, "Well, that's just great. How are you, Mike? It's nice to meet you. Welcome.

So, Patman and I chatted awhile, with Shacklette there. Shacklette didn't say a word. Patman talked. He was aging then. He was in his last—maybe his last two or three terms. But he talked a lot about the banking system and how it was dominated by big banks and the Rockefellers. I remember him talking about the Rockefellers and the banks, which carried over to an opinion on the Rockefeller Foundation. In Patman's mind they were similar evils, and probably even the Rockefeller Brothers Fund, in Patman's mind. {laughter}

You know, Patman was from Texas. He represented a poor district, farmers in East Texas, maybe cotton farmers, I'm not sure. I suppose they were often in debt to the banks. Patman's own economic history I'm not completely sure of, but he had a natural, inherent dislike of big money. He didn't trust it, he didn't trust Wall Street, and he certainly didn't trust the Rockefellers. {laughter} So, with those directions he said, "Nice to have you onboard," and I went to work as staff director of the Foundations Subcommittee down in the Rayburn [House Office] Building, B level.

When I walked in, I was stunned. It was a very big office, attesting to Patman's clout. Full-committee chairs had great power then, before the

“revolution.” I don’t use the word revolution to mean a Russian Revolution or anything like that, I mean the congressional revolution of the 1970s.

**KOWALEWSKI:** {laughter} Right.

**LEMOV:** The full-committee chairs had huge power, and subcommittee chairs had almost none. So, Patman had two big offices in the Rayburn lower level, the B level. They had windows, they were nice offices. In the first office, there were probably three or four clerks. I don’t think they had green eyeshades on, but in my mind they had green eyeshades on. They were poring over the financial statements of America’s foundations. Starting with Ford, Rockefeller, Carnegie, and going down through—there were thousands of them.

There had been a staff director who I think retired just before I arrived. His name might have been Feltcher. He had written report after report slamming the foundations—slamming them for perpetuating old wealth, for allowing dead people to control things that happened after they died through their relatives or executors, for avoiding the federal estate tax law, which Patman was very strong on. The estate tax was a way of paying back, paying for something that you got from America. Patman liked the estate tax and didn’t like the idea that setting up a foundation was a way to avoid the estate tax. You could put the money in a foundation, put your own buddy in as a director of the foundation, and when you died, tell your friend or your lawyer or executor to manage the foundation in whatever way you wanted in perpetuity. Give the money out to even your relatives and for whatever pet projects the wealthy deceased thought were a good idea.

There were some really egregious examples of foundation abuses. These Patman reports, for years, have been pounding at them. Ultimately, Patman

succeeded at getting amendments to the Internal Revenue Code, which required foundations to spend their assets down and, ultimately, to put themselves out of business. His work was a major factor in the law of tax law applicable to foundations.

I don't know how it's worked out over the years, but I know there is still a Ford Foundation and a Rockefeller Foundation. {laughter} So, clearly, he didn't succeed in his real goal, which was to destroy them. But he certainly limited their activities, and put more controls and checks on them. I guess progress isn't made all in one big home run. It's made by a series of singles. Usually, a series of base hits, not a home run. {laughter} At least not in this ballpark. Maybe down there at Nationals Park, it's a home run. Here in the Congress, in my experience, it's usually one base hit at a time and maybe a stolen base now and then. Patman had at least a double on this one.

But here's the interesting thing. When I got to be staff director, I found I didn't really agree completely with Patman's approach. I had complete control over the subcommittee, assuming that Shacklette was backing me, and he almost always did. {laughter} I could do whatever I wanted substantively as staff director because Patman and Shack [Shacklette] really delegated it to me. I began writing subcommittee reports based on our investigations of the foundations' tax returns—or at least one report which got a fair amount of press.

Patman then merged the foundation jurisdiction into Banking without much trouble. Small Business lost its jurisdiction in that area. I think that was in the next Congress. But I was still there when we moved into Banking. This would have been around 1970. Well, when I looked at the foundations, I thought some of them were really doing some good work, especially the ones that put their money into education, health care, and citizen public interest

organizations. Ford was a good example. They had a very active public interest program. The Rockefeller Brothers Fund was very active in trying to fund those organizations and public interest groups, which I thought helped to represent the unrepresented in this country, or the underrepresented.

So, I wrote a report for Patman, his last report, a very thin report. It took a different tack. It talked about how if foundations would use their money appropriately to fund public interest causes, they could in fact do some good things. I did not really undermine Patman's previous position. There were abuses. I wouldn't say it was a 180-degree turn in Patman's position, but it was 90 degrees. Shacklette signed off on it, as did Patman, as far as I know. Perhaps he, or Shacklette, wanted to mellow his image as he moved toward the end of his long career. Whatever the reason, my report—our report, which was approved without dissent or comment by the members of the subcommittee, is much different than the earlier reports of the subcommittee.

The only footnote I would add is that one day I had a gentleman come in for an appointment with me from the Center on Foundations [Foundation Center], which is their national umbrella organization. He just sat there and said, "I wanted to meet you and ask you about the subcommittee's report." He was friendly. They seemed to want to at least talk to us, not run away from the subcommittee. {laughter} So, it was an interesting change. It was quite an experience.

I ultimately worked with two people who were very important on Patman's staff and national banking policy: Paul Nelson, who was staff director of the Banking Committee, and Jake Lewis, who was Patman's public affairs director. They were the power of the Banking Committee, along with Shacklette. In the later years of Patman's long service—and he was a forceful

and productive Member of Congress—he delegated more to staff. He was probably the senior Member of the House when I worked for him.<sup>11</sup> But he was getting older, and he delegated well to people who were at least as progressive as he was. Perhaps the better word is “populist.” Patman didn’t like anything big or wealthy. Nelson and Lewis and Shacklette understood exactly what their chairman wanted. So, the Banking Committee was run in large measure by the staff, I assume with Patman’s general oversight.

In addition, the subcommittees such as Housing, which was chaired, I think, at one point by Henry [B.] González of Texas, and then by [Thomas William Ludlow] Lud Ashley of Ohio, was the largest subcommittee of the Banking and Currency Committee.<sup>12</sup> It, traditionally, had a great deal of independence and its own resources. So, my first glimpse at the committee system indicated to me that the committee chairman delegated a lot of authority to his members, and to the subcommittees, and that the Members could really do a lot of what they wanted on their own. It also showed me that the staff could have an awful lot of power.

I worked on the Lockheed bailout legislation for Nelson. I use the word “bailout,” it may not have been called a bailout at that time. But so-called bailouts have become quite prominent in recent years. I might point out that the United States Congress loaned or guaranteed a lot of Lockheed Aircraft’s debt in 1970 to save the company. A tremendous amount of money was involved. It was all paid back. The public and the workers in the industry benefited. The use of public money turned out to be a pretty good investment for the aircraft industry and, ultimately, the taxpayers. The committee reported that bill, and Congress passed it.

So, I guess then we come to the switch. {laughter} I’ll stop for a minute there and say that although my time with the Banking Committee was brief, and

my knowledge of Wright Patman was only at the end of his many years in Congress, I think it was a very significant time for me as a young staffer.

**KOWALEWSKI:** How was the transition from consumer products to financial matters? I guess they're inherently combined in some respect, but was it difficult for you transferring your wealth of knowledge that you developed with the commission to really going in and altering policy?

**LEMOV:** Well, it was black and white.

**KOWALEWSKI:** Okay.

**LEMOV:** I didn't do anything about product safety or consumer protection with Patman and with the Foundations Subcommittee and the Banking Committee. I became a member of Nelson's staff once foundations [jurisdiction] were transferred. I was on the Banking Committee staff. I felt that by moving a little bit into a more balanced position on foundations and the uses of their money, I was helping the general public and public interest groups in some way. So, I thought then that there was some parallel.

But frankly, I missed product safety and consumer protection so much, that after about a year I picked up the phone again and called John Moss. I said, "Mr. Moss, you said you were going to get back to me when you had a job, and I have heard a rumor that you did get a slot from Mr. Staggers." I asked if he had a slot. He said, "Yes, Mike, I do. We have prevailed upon Harley to give each subcommittee of the Commerce Committee one staff slot. But it only pays \$23,000 a year, and you're making"—he knew my salary—"you're making \$33,000 a year with a full-committee chairman."

Now that might not sound like a lot of money today, but in those days, the 1970s, that was a substantial amount of money, particularly for a young

lawyer. I said, “Mr. Moss, what made you think I wouldn’t accept the job at the lower salary”? {laughter} He said, “Well, I just thought that \$10,000 was a big salary cut.” I said, “I’ll take the job.” He said, “You have it.” So, I took the cut of \$10,000, and then the flack started.

I went to Shacklette. He said, “Nobody leaves Mr. Patman.” He said, “The last guy that tried to leave had to settle in Hawaii.” That was the nearest place he could find to live or work because Patman would go after him anywhere else. He said, “If you try to leave Patman, what will happen is Patman will fire you. Then he’ll talk to Moss, and Moss won’t hire you. So, you’ll be without any job, Mike.”

**KOWALEWSKI:** A threat. {laughter}

**LEMOV:** He was a nice man. I mean, he didn’t do it in a threatening way. He was my friend. I could always go to Shacklette for advice. But he was warning me, “Don’t try to do it. The last guy that did it wound up at Hawaii.” {laughter} He was actually protecting his chairman—like the pistol he had in his closet. But the pull of consumer protection and magnetism of John Moss was too much to resist. It overcame my fear of being without a job, again. {laughter}

So, I went to Moss and said I would take the job. I told Patman I was leaving. Here’s what happened. I first told Shacklette I was leaving. I’m standing in Shacklette’s little office, and he says, “Let’s go tell Mr. Patman.” So, I said, taking a deep breath, I said, “Okay,” or maybe “Do we have to?”

We walked in to see Mr. Patman. He heard Shacklette say “Mr. Lemov is going to move over to Commerce and work for John Moss on consumer protection.” Shacklette tried to soften it a little bit. Full-committee chairmen, especially in their declining years, do not like to lose staff. It suggests a weakening of their power.

So, Patman said—even though he had been totally supportive of my 90-degree reversal of his program, and I had worked in very well with Lewis, Nelson, and Shacklette, Patman addressed Shacklette. He didn't talk to me at all. He turned to Shacklette, "Mr. Shacklette, take Mr. Lemov down to his office, take his keys, stay there while he cleans out his desk." It was "Bye-bye, Mr. Lemov," right then. I'm not sure if he even shook hands with me. Shacklette did exactly that. I don't think Shacklette evicted me that very day, but it was pretty close.

Then, round two, as I understand it—I wasn't there—but Moss and Patman had a little chat. Patman said something to Moss. Well, I guess I heard this from Moss. Patman said something about, "I really don't think you should take a member of my staff. I need him, and I don't want to have him move over to another committee." Moss said, "It's up to the individual staff person to decide where he wants to work." I mean Moss wouldn't back down, and Patman couldn't threaten or intimidate Moss. He stood up to him.

So, I was hired by Commerce, and I became Mr. Moss' special counsel on the Subcommittee on Commerce and Finance. I stayed friendly, though, with "Shack" and Paul and Jake for many years. I always thought they were looking on approvingly at what we were doing across the hall in the Commerce Committee.

**KOWALEWSKI:** So, how much did you know about Moss prior to joining his staff? He made some waves in the late '60s with FOIA [Freedom of Information Act] and the investigations there. Had you followed those proceedings at all? How much did you know about his career and his own ideology and his own ambitions?

**LEMOV:** Not very much. I knew that he was a senior member of the Commerce Committee. I knew he was what I would call "sensitive to the needs of the

consumer” because of the way he had spoken on the phone and what he’d said about the NCPS report. I probably knew that he had—that his great achievement thus far in his career was the enactment of the Freedom of Information Act, after a long legislative fight, which had come before I served with him. I didn’t know much else. But I knew he had the jurisdiction, and that’s what I cared most about. That’s where I wanted to go. He had jurisdiction over the Consumer Product Safety Act that the national commission had sent up to the House. It may be that Mike Pertschuk briefed me on Moss.

**KOWALEWSKI:** Okay.

**LEMOV:** Because, I’ll tell you right now, the House was viewed by the Senate, and by a lot of others, as the graveyard of consumer protection legislation in the late 1960s and early ’70s. No, at first I didn’t know a lot about John Moss.

**KOWALEWSKI:** That’s an interesting point that we’ll get to in a little bit, especially Bill [Williamson Sylvester] Stuckey [Jr.] of Georgia, his ability to stop legislation right in its tracks given the organization of the subcommittee itself. But before we get there, I’m curious to hear what you remember about Moss as a person. He’s been described as “dull, grave, quiet, humorless, hardworking, and plodding.” It’s not necessarily the most {laughter} gracious of descriptions. But I’m curious to hear what it was that really made his staff completely, 100 percent, loyal to him.

**LEMOV:** Well, you know we were very loyal to him. It is true, accurate. I’ve never seen a staff that revered a chairman as much as our staff revered Moss.

**KOWALEWSKI:** It was so well known it was even included in his obit in the *New York Times* when he died in 1997.

**LEMOV:**

Well, it's funny, I interviewed several of his staff in the course of writing a book. I'll put in a plug. It's called *People's Warrior: John Moss and the Fight for Freedom of Information and Consumer Rights*, which will be published in May 2011. So, I interviewed, or perhaps reinterviewed, some of my friends from the staff because they are part of the story. I hired most of them, if not all of them. Moss delegated a lot. What I kept getting from them about the question you just asked was "integrity." Moss had integrity. When he said he was going to do something, he did it. He kept his word to the staff, and he backed them up.

He believed in the consumer, the little person. He had been a little person himself. He knew hard times in his life. Moss was a fighter for the little man and woman. His staff, just in the face of all the pressure from large interests of all kinds—whether they were business or government—to slow Moss or stop him, we saw he didn't slow down, he wouldn't back down. I think his staff saw that as honesty and integrity. He always backed his staff. We had staff challenged by agencies and industries. I'm sure Moss got all kinds of complaints about his legislative and investigative staff over the years—probably not as many about the legislative staff.

I was in one meeting—this is an example of Moss' character. I was in one meeting with George [Herbert Walker] Bush, who came up to talk to Moss about how the staff was improperly pressuring to get information from the executive branch. Bush was not yet President, of course. I think this was in the course of the Rogers [Clark Ballard] Morton investigation over the Arab boycott of American firms that did business with Israel. Moss had subpoenaed information from the Department of the Interior. The Secretary was Rogers Morton. Bush stood there or sat there and—he was a nice person.

I mean, everybody liked George Bush. He had been a Congressman briefly. This was George H. W., the father of George W.

**KOWALEWSKI:** H. W.

**LEMOV:** H. W. Bush. Bush urged that Moss order the staff to back off. He said that the staff had been pushy, and Moss smiled. He said he appreciated Bush's position, but he didn't budge at all.

We had another incident where there was a staff member named Frank Silbey. S-I-L-B-E-Y. Frank was not a member of the Oversight and Investigations staff. Moss had him as a member of his personal staff, as his own personal investigator. As if Oversight and Investigations didn't have enough people to do investigations. We can get into the kind of extensive investigations Moss got into, and how many, at the same time. But he had Silbey up there investigating the CAB [Civil Aeronautics Board] and various other things like privacy breaches by the GSA [General Services Administration] and that kind of thing.

Well, Silbey had gotten into a real shouting match, and had, I think, had been too heavy-handed and impolite with the staff of—I think it was the Interstate Commerce Commission [ICC]. At that time, it had jurisdiction over airlines, railroads, and trucking. The ICC secretary and Hill liaison came up to talk to Moss about the unfair and impolite way in which Silbey had allegedly shouted over the telephone that they should get some information up here. Moss asked me to attend the meeting. Even though I think Moss probably told Silbey to tone it down, he didn't back down in front of the agency, and he didn't call him off, and he didn't fire him. Moss always backed his staff.

**KOWALEWSKI:** He was so well respected around the Hill and back in his district. Did you ever see him show any ambition for higher elective office?

**LEMOV:** Yes, absolutely.

**KOWALEWSKI:** Okay.

**LEMOV:** I'll tell you about that in a minute. But I want to tell you about another earlier example of Moss' drive. So, this goes to his personality. When I came onboard with the Commerce Committee, I didn't have an office because although Harley [Staggers] had given the subcommittees a single staff member for each one, no one had an office. I'm talking about important subcommittees on Communications, Energy and Power, Health and the Environment was the third one, although it might not have been called Environment in those days. Those are the three big ones. Then there was the one that did the Superfund Act. That was another large subcommittee, so that's four. Moss had number five, the lowest and least popular, least significant subcommittee, until he got hold of it. It was called Commerce and Finance. Okay, so each subcommittee got one staff person. I worked very closely with Steve Lawton, who was Paul [Grant] Rogers' staff member on the Health Subcommittee.

**KOWALEWSKI:** Yes, and you came in together around the same time, right?

**LEMOV:** Around the same time. You have done your research, you certainly have. Yes, about the same time. We were often allies.

**KOWALEWSKI:** Okay.

**LEMOV:** But I didn't have an office. So, at first, I sat—get this, {laughter} I sat in a room with a desk in the Longworth Office Building along with about three

or four other desks. It wasn't our room. I don't even think I had a filing cabinet. I had a desk. These other desks were peopled by staff people from other committees and Members' offices. I didn't know whose room it was, who had the physical control of it. I do remember that lobbyists used to hang out there. One lobbyist had a desk there, and he had a bottle of gin in the drawer. You know, they passed the bottle around. He also had a golf putter, a putter standing in the corner there. He would draw a circle on the carpet, and he'd take his golf ball and practice putting.

So, my {laughter}—here I am, sitting in this Siberia of an office, trying to plan the first hearings on the Consumer Product Safety Act, which was going to be the first bill up because I knew it best, and Moss concurred. Moss approved every hearing. He read every big black loose-leaf book we gave him on witnesses.

**KOWALEWSKI:** So, this would have been around the summer of '71? Late spring, early '71?

**LEMOV:** When did I show up? I left Patman probably around '71 and went with them. So, it was probably the spring, early 1971.

**KOWALEWSKI:** Okay. Because Moss introduced H.R. 8157 in May.

**LEMOV:** That would have—I was there already, I think. That would have been just about the time I got there. What was the bill number again?

**KOWALEWSKI:** H.R. 8157.

**LEMOV:** H.R. 8157 was the National Commission on Product Safety bill, verbatim. There were no changes made. You may have noticed the Senate also introduced it, but later on the Senate Commerce Committee reported a

totally different bill. When we went to conference, the two product-safety bills were entirely different. But that's another story.

**KOWALEWSKI:** Oh, we'll certainly get into that one.

**LEMOV:** We got into that one.

**KOWALEWSKI:** Definitely interested.

**LEMOV:** Anyway, here I was, far away in the Longworth Building. Moss was in Rayburn, as was the Commerce Committee. I mentioned the accommodations to Mr. Moss. I could always get to see him whenever I wanted. He was always open to his staff. Kassy [Kathleen] Benson was his—no, she was not his AA yet, she was his secretary, who sat out in front. Kassy Benson, B-E-N-S-O-N, a beautiful redheaded young woman who was a dynamo around Capitol Hill. She would always make sure I got in to see Moss. Now, I think Kassy might have stopped some other people she didn't want to get to see him as quickly, but I was in there right away.

**KOWALEWSKI:** She's the gatekeeper.

**LEMOV:** She was the gatekeeper. She later became—Moss made her his administrative assistant after Jack Matteson retired. Jack Matteson had been with him from the FOIA days. He was a journalist.

**KOWALEWSKI:** That's another question. He surrounded himself with journalists.

**LEMOV:** He did. We can talk about FOIA later on. FOIA should be on a list for a discussion—I know a bit about FOIA now because of the research I did and the people I talked to.

**KOWALEWSKI:** Okay.

**LEMOV:** I wasn't there when it happened, though. Matteson was a holdover, and Kassy was the receptionist. So, I always could get to see Moss. I walked in and said to him, "I don't have a great office situation." I could have lived with this little desk in the room in the Longworth uilding with a golf putter and a bottle of gin. But somehow, I had hoped for something closer to Moss. So, I said, "Mr. Moss, you know, the subcommittee doesn't have an office." Well, here's what happened next. Moss went right around Stagers to the chairman of the House Administration Committee, whose name was Thompson. First name? [Frank Thompson, Jr.]

**KOWALEWSKI:** It escapes me.

**LEMOV:** He was involved in Abscam.<sup>13</sup>

**KOWALEWSKI:** Okay.

**LEMOV:** You will remember him.

**KOWALEWSKI:** Yes.

**LEMOV:** He was a progressive. He had had a good record, but he ran afoul of the FBI in Abscam, and he was seen giving a check, I believe it was, to a sheikh. It was videotaped, and he was gone.

**KOWALEWSKI:** There was a big outcry when that happened around here.

**LEMOV:** A big what?

**KOWALEWSKI:** Outcry. A lot of it.

**LEMOV:** Well, there should have been.

**KOWALEWSKI:** Yes.

**LEMOV:** People I've talked to at *Congressional Quarterly* told me he was entrapped. This is not someone on the Hill and was not a friend of Thompson.

**KOWALEWSKI:** A lot of Members felt that way.

**LEMOV:** He felt they induced him to commit the crime. Whatever it was, this was years later. I don't think Thompson resigned until probably five or 10 years later. At the time, he was chairman of House Administration, and he was a friend of John Moss. So, Thompson found Moss two windowless storage rooms next to the snack bar in the Rayburn basement.

**KOWALEWSKI:** B311.

**LEMOV:** That's the snack bar?

**KOWALEWSKI:** That was your office.

**LEMOV:** You have certainly done your research. Moss proceeded to send over the House wrecking crew, who immediately knocked down the walls between the two storage rooms, removed what was in there, and converted them into a rather nice dual office. On one side was the consumer protection division of Moss' subcommittee, which was me.

**KOWALEWSKI:** Right. {laughter}

**LEMOV:** On the other side was a secretary and two guys in the back of the room named Harvey Rowen and Kenneth Painter, who Staggers had been forced to give Moss to conduct a wide-ranging study of the securities industry in the United States. That will be another story when we get to the legislation Moss pushed through.

So, we had a rather nice office with a secretary, all because Moss went around Stagers to Thompson and got it done. I think it took him a couple of weeks, and we had a subcommittee office. He didn't fool around. And right next to the snack bar, which was kind of nice. We didn't spend a lot of time in the snack bar. Not with John Moss' schedule.

**KOWALEWSKI:** Elective higher office?

**LEMOV:** Pardon me?

**KOWALEWSKI:** I had asked you a question earlier about whether or not Moss was ambitious for higher office.

**LEMOV:** Thanks for reminding me. I was off the point.

**KOWALEWSKI:** No, these are great stories.

**LEMOV:** I like these stories because they tell you about Moss. He had immense drive and integrity. Moss was one of 35 members of the Commerce Committee. He probably became the most powerful member after some years, more powerful than the chairman. Yet there were other very strong and competent members of that committee, and they played a big role too. We can talk about that if you like, too.

So, now your question was, did he ever show ambition for higher office? Moss would have liked to be chairman of the full Commerce Committee first of all, and John [David] Dingell [Jr.] wanted him to be chairman of the committee, and Paul Rogers would have loved him to be chairman. All of the Watergate freshmen wanted Moss to be chairman. He really became, for awhile, de facto chairman. But Stagers was so angry and threatened by Moss' pushing, not only for staff, not only for office space to handle the

legislation he had before his subcommittee—Moss wanted to control the pace and selection of legislation. He wanted, and Rogers wanted, and Dingell wanted their own subcommittee budgets and control of their own legislation up through the full-committee level. They wanted to manage the bills on the House Floor. All of which Staggers did when I got there. All of which he lost because he fought John Moss, and he lost, and also because the 1970s were a time of change here.

It was not only John Moss. Things were happening in other committees, which paralleled, to some extent, what was happening in Commerce. I think Commerce was a leader. Perhaps it was different than other committees. They didn't impact very much on Commerce because Moss and Dingell and Rogers had their own agenda. They might have been talking with other members of the Democratic Caucus at the time. There was a general desire to give junior members of committees more power to be able to handle the growing workload before Congress. The full-committee chairman didn't sense that, and did not react to it. Perhaps there were other full-committee chairs that had the same problem—some of them were voted out. But Moss did it another way.

So, back to his ambitions: Yes, he wanted to be chairman of the full committee. At one time in 1976, he told me that he would not mind being Secretary of Transportation. It was when Jimmy [James Earl] Carter [Jr.] won the presidency in '76.

Here is another example of the kind of man Moss was. I made a run to be chairman of the Federal Trade Commission in 1976, when Carter was elected. It's another story, but I lost out to one of my best friends, Mike Pertschuk.

They say the Senate often trumps the House when it comes to appointments in a new Democratic administration. But when I asked Moss could I make a try for the Federal Trade Commission, I had a lot of industry support and a lot of consumer support and, some Members of Congress. I ran an aggressive campaign for the FTC. I got onto the short list. I was mentioned in the newspapers, along with Pertschuk and one or two other people.

So, before I did anything, I mentioned my interest to Moss. He said to me, "You know Mike, I wouldn't mind being Secretary of Transportation in the Carter administration. Would you manage my campaign for me?" I said, "Of course, Mr. Chairman. I would be very honored to do that. Now, do you want me to drop my effort to become chairman of the FTC?" I think most Members would have said, "Well, it's a bit of a conflict," or "It might undermine my own effort." Moss said, "Not at all, go right ahead. Do your very best, and see what you can do about nosing around about getting me to be Secretary of Transportation."

It turned out that Moss didn't get it. He should have gotten it. He would have been a fine Secretary [of Transportation]. I think he probably frightened a middle-of-the-road Democrat like Jimmy Carter. Brock [Brockman] Adams got it, a junior member of the Commerce Committee. That was kind of the compromise. Moss was too liberal, and so was I.

Brock Adams was a clean-cut, intelligent, good-looking young Member of Congress. He served as Secretary of Transportation. So, yes, Moss did show a desire to move up at least twice. But Staggers said, "I'll never retire as long as John Moss will become chairman of this committee." He kept his word.

He did it because of what Moss did to him. I think he might have retired if they had not had all these battles in the 1970s about control of the

committee and staffing. But once that happened, there was no love lost between them. Somebody once said that the committee Democrats drove over Staggers with a truck and then backed up over him. Because he was so hurt by the defeats in the full committee in about 1975 or 1976 that he would never retire, he said, until Moss retired. When Moss retired in 1978, or around January 3, 1979, Staggers stayed two more years with John Dingell behind him on the committee, and then he too retired.

So, Moss did not get Transportation [Secretary] and could not get the full committee. He then reduced his FOIA leadership role, although he stayed involved in FOIA issues. He fought battles to broaden public access to government records under FOIA to the very end of his years in Congress. But he pretty much focused on accomplishing things on the Commerce Committee rather than on gaining higher office.

**KOWALEWSKI:** Were you around in 1973 when Moss went after Staggers at the Democratic Caucus to try and shift or, I guess, reorganize the way committee staff is handled? Especially to reorganize the Commerce and Finance Subcommittee membership itself, because Moss had been frustrated so often, mainly because Bill Stuckey of Georgia was able to frequently vote against Democratic proposals. Moss had garnered a lot of support. More than half of the membership of the entire full committee supported him, saying, "We need to go after Staggers. We need to do this. We need to alter the way this is done." To kind of shift the way Members are appointed, because Staggers appointed people rather than having them, more or less, select their own subcommittee assignments. But when Moss went before the caucus in '73, a lot of people backed away from him, and Moss was kind of left on his own, and Staggers essentially won that round. Were you around for that? Did Moss confide to you at all during that period?

**LEMOV:** No, I didn't know Moss had gone to the Democratic Caucus and tried to get the subcommittee members selected in the order of seniority or by vote. Well, it was actually a kind of rotating choice. They go down the line of seniority, and they go around again until everyone has picked one or two subcommittees. It's done in an almost, a random way. I guess that power was taken away from the full-committee chairman. But I didn't know Moss went to the House Democratic Caucus. He did it in Commerce, and he won in Commerce. Not only Staggers, but I'm sure many other full-committee chairmen, would have opposed that reform in the Democratic Caucus in 1973. I didn't know about it.

**KOWALEWSKI:** Well, the main bone of contention was that the Democratic Caucus rules stated that there needed to be a clear Democratic majority, and with Stuckey on the subcommittee, there wasn't a clear Democratic majority. That was really Moss' main concern, was to somehow rejuvenate Commerce and Finance Subcommittee membership so that he wouldn't be frustrated constantly in his efforts. I don't know if he talked to you about this, or if you remembered that period?

**LEMOV:** Well, of course, we knew about the Stuckey situation. We knew Moss did not have a majority on his own subcommittee. He had, at best, a tie. Stuckey gave us a vote once in a while. But on the real business/consumer issues, Stuckey was with the Republicans.

**KOWALEWSKI:** No-fault insurance in particular, right?<sup>14</sup> He helped them go up.

**LEMOV:** I'd say that's a good example. I think it happened again in—well, it happened several times. As we go through these bills, I'll recall more as we talk about the particular bill. But it surely happened on product safety. It

took Jim [James Thomas] Broyhill to compromise, to undercut Stuckey. But Stuckey helped Moss on securities, or else he did not care.

**KOWALEWSKI:** Okay.

**LEMOV:** He blocked no-fault, but so did a lot of the liberal Democrats. Toxic substances [legislation], he was gone by that time, I think. Moss had another problem. By that time, Moss' subcommittee membership was different. But because—I don't remember all the details of my years with Moss through 1975 on this point. I used to think about it as three Congresses during which Moss passed at least five major pieces of legislation—five landmark pieces of legislation in six years. He did it with a minority of votes on his own subcommittee and with a full committee where sometimes Staggers and a few of his friends, Democrats, would take a walk on Moss' consumer bills. He did it anyway.

Now I know he did it, even though he lost round one in the Democratic Caucus in 1973. But if you remember from the correspondence I gave you between Moss and Staggers, he had already written to Harley about the committee organizational and staffing issues in 1969.

**KOWALEWSKI:** '69.

**LEMOV:** 1969 was the first letter. He had Dingell on the letter with him, and Rogers was on the letter.

**KOWALEWSKI:** Yes, and Rogers.

**LEMOV:** Something was driving those Members, and it wasn't just personal pique at Staggers. He was actually a pretty nice man, personally. I'll tell you—remind

me to tell you about Staggers after I left Congress, how he treated me and how some of our allies treated me.

Moss and Rogers and Dingell had written to Staggers. They told him exactly what they wanted and why they needed changes. Long letters—courteous letters—saying they wanted Staggers to be a successful chairman. That they needed him to be around like Oren Harris had been around, not go back to West Virginia on the weekends. They needed adequate staff, and they needed authority to move forward. The chairman had to schedule all their subcommittee hearings. You couldn't start work on a bill until Staggers said okay. Either that was tradition or written into the rules. I think it was probably in the rules. Moss had to use Staggers' staff, some of whom were good and some of whom weren't so good. But the main thing is, Moss wrote these long letters with Dingell and Rogers, telling Staggers why they needed staff—that they had great issues facing the committee—and they urged him to change the rules or change the practice so they could move ahead.

His answer was amazing. He said “It has always been this way.” This is in writing, in a letter he wrote to Moss, Dingell, and Rogers, which was basically waving a red flag at a bull—I mean, to three bulls. Staggers was not going to compromise. He said, “It has always been this way. I have inherited a committee which always worked this way. I always have had the power, my predecessors have had the power. I'm not going to change now. I am like the captain of a ship”—or a football team, he might have said, because he had been a football coach. So, Staggers said, “This way is almost a moral law.” There didn't seem to be any room for compromise in 1969. That's probably why Moss went to the caucus, where he failed at first. I didn't know about that first defeat.

**KOWALEWSKI:** Yes.

**LEMOV:** But he and his allies on the committee did not fail later.

**KOWALEWSKI:** The main problem was that it seemed that the committee rules and the caucus rules were not in unison. And that Staggers went with what Moss and Rogers and Dingell considered to be outdated committee rules while overlooking the Democratic Caucus rules.

**LEMOV:** But I assume the caucus refused to instruct Staggers or direct him. So, Moss, Dingell, and Rogers, with the support of a majority of the Democrats on the committee, changed the committee rules. What Moss did in 1976 when the Watergate freshmen gave him the votes, was to change the committee rules and practice to conform with the caucus rules or to go further.

In the background here, is that there was a major scandal—I think I mentioned it before. Wilbur [Daigh] Mills lost his full-committee chairmanship. Wayne [Lever] Hays ran into problems and was defeated in the caucus. [William Robert] Poague of Texas was defeated in the caucus. This is all in the 1970s, which was an era, I would say, of revolt by the junior members of congressional committees in order to obtain more influence in the legislative process.

**KOWALEWSKI:** So, before we move on to your role as counsel, I'm still a little bit interested in Moss as a person. He lacked the big formal education, didn't have a four-year degree, may have had an associate's degree, I can't remember. But he constantly surrounded himself with very talented people, in particular, lawyers and the press or people who came from journalistic backgrounds, like Matteson, you mentioned just a few minutes ago. What was the reasoning behind that? What was his drive to hire these people?

**LEMOV:** Well, Moss' background is interesting. Let me give you a bit about Moss' background.

**KOWALEWSKI:** Sure.

**LEMOV:** He was born in Carbon County, Utah, in the early 20th century. His family moved to Sacramento in the 1920s, when Moss was 9 or 10—so, he was born about 1915. Moss was 9 or 10 years old then. He had lived in a little town in Utah, a coal mining town. Moss told me he remembered that it was a poor town, and people had to scramble to make a living. Moss' dad had a lot of trouble. His dad was a miner, a coal miner. He couldn't support his family very well. Moss had asthma as a kid. It actually continued all his life. So, the family moved. Moss told me that in Utah he saw soldiers with machine guns on the porches of little miners shacks when they went on strike. It was turbulent in Utah, and it was poor.

The family moved to Sacramento because they had some relatives there. Moss had all kinds of low-level work. He got through high school. He was a good student. He was in some plays in high school. He showed an ego, which I think you have to have to be an actor. But he needed a lot of odd jobs to work his way through two years at Sacramento Community College. He told me he drove a hearse to make money. He worked for a tire dealer, where he was supposed to collect back payments from people who couldn't make payments. Those were hard times in Sacramento, the 1930s.

When Moss was a youngster, in the 1920s, his mom died from an infection, which Moss says penicillin would easily have cured if it had been discovered then. Then his younger sister, Afton, died of some kind of curable childhood illness. So that left Moss, his brother Henry, and another sister mostly alone in Sacramento. Moss and his brother supported themselves. Their father left town. He was a drinker, he was a miner, and he couldn't really make any money in Sacramento. He would just leave town periodically for long periods.

So, Moss supported himself from the time he was 12 years old. He had an aunt who helped him a little. Henry and John lived in a loft. He told me that sometimes he would walk across town from school to save a dime for the bus fare. The dime he used in the gas meter so they could heat their dinner, which was often a can of spaghetti. That's what they had for dinner. Sometimes they ate it cold because they didn't have a dime for the gas meter.

So, we get a feel for John Moss, where he came from, what he went through as a young man. He never did finish college. He said, "I really wanted an education. I read Blackstone, I read everything I could get my hands on, newspapers, books," he said. "But I didn't have the money to finish, even for the books at college. I had to support myself." So, he went to work. He had these jobs like tire-bill collector and at the funeral home.

Ultimately, he got into Democratic politics, and he obviously showed talent because he rose, rapidly, to be secretary of the local Democratic committee and a member of the state Young Democrats. He got in position to get the nomination for the California state assembly in 1948. He was then an appliance dealer, a small-business man. He served two terms in the California state assembly. He was a maverick from the beginning. I am not going to go into that too much. It takes up a couple of chapters in my book on Moss.

**KOWALEWSKI:** {laughter} That's fine.

**LEMOV:** But I do want to say this was Moss' character. He took on the very same interests in Sacramento that he took on in Washington. They included the oil and gas industry, the California Medical Association, and Pacific Gas and Electric [Company]. It foreshadowed what Moss would do later in life. He was a fighter and a hard-luck kid from the very beginning. But he obviously also had ability and magnetism. He unseated a four-term Republican

incumbent for the state assembly in his first race in 1948. Nobody gave him a chance because the Democratic establishment in Sacramento did not like John Moss. They couldn't control him, and he was too progressive for them. So, they ran a Democrat against him.

In those days, there was cross-filing and open primaries, and anybody could run in either party primary. You didn't have to be a registered member of a particular party. What the Democratic Central Committee of Sacramento did is they ran a well-known Democratic lawyer, son of a judge, against Moss in the Democratic primary. The sitting Republican assemblyman [Dwight Stephenson] also ran against him in both primaries and in the general election. Well, Moss was caught in the middle. There was no way he could win. It seemed impossible. But, the *Sacramento Bee*, the largest newspaper, backed him. Moss narrowly beat Stephenson, the Republican, in the three-way Democratic primary to get the nomination. Then he won the general election, again narrowly.

**KOWALEWSKI:** The newspaper out there?

**LEMOV:** One of two newspapers, the *Union* was the other one. It called Moss a "Wallacite" after the progressive Henry A. [Agard] Wallace, who was Truman's Vice President.<sup>15</sup> The *Bee* was his main weapon. Moss had a dedicated campaign manager named Jerry Wymore and a bunch of people from Sacramento City College working for him. He had some students and professors who supported him. And he pulled it off.

In his first congressional campaign four years later he was running against a future Republican mayor of Sacramento [Leslie E. Wood]. He won by less than one percent of the vote. It may give you a little bit of background of why Moss was so tough, someone who seemed unbending and stern. John

Dingell said it, too. He was asked what made Moss what he was. Dingell said “his early life and his feeling for the little man.”

Okay, so Moss goes to Congress after four years in the state assembly, where he had already tackled a Republican speaker as a freshman and defeated him over the issue of electing rules committee members rather than having them appointed by the leadership. How’s that for a foreshadowing?

But in his first congressional campaign, in 1952, Moss was running against Les Woods, a man who was very popular and became the mayor of Sacramento. The Republican county committee and the chamber of commerce ran Woods to stop Moss. Woods was a popular guy who was well known and a member of all the clubs, the business clubs. That was in 1952, the [Dwight D.] Eisenhower landslide year. Eisenhower carried the state by over half a million votes. William Knowland, a Republican, was elected Senator by almost a million votes. The Republicans won five of the seven new congressional seats given to California that year. They increased their majorities in the California senate and assembly in 1952.

John Moss was trailing throughout the day. When he looked at the returns that night, he said, “I went to bed a loser.” It was like a wake at Moss’ headquarters, because about 1:00 in the evening he was way behind. So, he said, “Well, I’m going to write a concession telegram to Woods.” Wymore said, “Well, wait, boss. Let’s just wait a little bit. Let’s see what happens with the returns from the down-county areas out in the Sacramento Valley, the Delta,” which were agricultural, farming areas. When Moss woke up in the morning, he had come up from behind with votes from the farmers and farmworkers, and he was on his way to Washington.

**KOWALEWSKI:** He had a great personal relationship with Broyhill.

**LEMOV:** Great, in a way.

**KOWALEWSKI:** Okay. Because Broyhill always said that—to use the famous Tip [Thomas Philip] O’Neill [Jr.] line—that they could disagree without being disagreeable. What do you remember about Broyhill? Because he was also a very well-respected, well-liked Member around the Hill.

**LEMOV:** Broyhill was called one of the most creative legislators on the Hill by *Congressional Quarterly*. I knew Broyhill well and still know him. I talked to him on the phone a couple of months ago. He’s in his 80s and lives in Western North Carolina, part of which he represented in Congress for many years. Broyhill had about an 85 percent–conservative voting record. He did not agree on a lot of Moss’ goals, but he wanted to make the place work.

Broyhill believed Congress should work. They’d fight, but they never fought publicly, and they never fought with harsh words. In contrast, take Moss and Staggers. Staggers once said, in public at a hearing or a markup, “I’ll pray for you, John.” {laughter} Moss said, “How dare you pray for me! I don’t give you permission to pray for me.”

**KOWALEWSKI:** Public, open to the public, yes.

**LEMOV:** A public committee meeting. But with Broyhill, they were unfailingly courteous to each other. I do think Moss intimidated Broyhill a little bit, or put it this way: Broyhill had a job to do for his caucus and his supporters. They were largely against what Moss was doing. So, Broyhill was trying to do his job, make the place work, and also defeat Moss in enough ways so that he could be seen as effective. I think he probably accomplished it. Somebody should write a book about him. Yes, Broyhill was very important in that era. I’ll tell you a story about the first bill we took up in the Commerce

Committee when I first got there in 1971, after Moss dropped in H.R.  
814—

**KOWALEWSKI:** —57.

**LEMOV:** H.R. 8157, okay. So, the hearings on the proposed Consumer Product Safety Act started, and they went on for 12 days, at least. Many industries wanted to testify, and all the consumer groups testified. There was pretty much uniform opposition from industry. I think Sears was one company that showed willingness to have a bill, as long as it was a reasonable bill. Toro lawn mowers came to us. They made the Cadillac of lawn mowers in those days. {laughter} They sort of liked the bill. But other than that, there was almost uniform opposition to Moss' bill. From the chamber of commerce, the National Association of Manufacturers [NAM], the [Association of] Home Appliance Manufacturers.

Anyway, the hearings went on for a long time. The first hearing was on an oddball product. It wasn't on toys or appliances or chemicals. It was on synthetic football turf. Why? Because we decided we needed a boffo hearing to start things off. We decided we ought to start with a bang.

We knew Ed Garvey, the director of the NFL [National Football League] Players Association. The players were trying to organize a union, and the owners were stonewalling them. We tried to help the players. This resulted in my getting tickets to a Dallas Cowboys–Redskins game at RFK [Robert F. Kennedy Memorial] Stadium, sitting with the owner of the Cowboys at the time, and his wife or girlfriend, and his son. Oh, it was a wonderful day. It didn't change our position supporting the union, or on synthetic turf. But they gave me two tickets. I think I took my son Douglas. In those days, you

could do that. I think now it's probably an ethical violation for staff to accept football tickets, but there was no prohibition on it then.

I sometimes got honoraria when I spoke—not all the time—but once in a while trade associations would give me a small honorarium, and I could accept that too. I don't even remember if I had to report it, but it was legal or I wouldn't have done it. Moss was the soul of integrity.

But I was telling you about the first hearing. The players were complaining about synthetic turf, and the owners were preparing to install it in a lot of football fields. So, I decided we'd have Billy Kilmer as our leadoff witness on the product-safety bill, known as the Consumer Product Safety Act. We did have a hearing on the safety of synthetic turf, and we had Billy Kilmer testify that the stuff was too hard, and dangerous. We had Roy Jefferson, who was a wide receiver, testified that he had gotten a staphylococcus infection from the failure of the turf to properly drain—it retained bacteria. We had a Jets player come in and testify that he broke his arm because the turf was so hard.

It's actually a questionable jurisdictional issue, because the way the bill was written, it has a very broad definition of consumer product. But you could argue that this was not even a household or a consumer product. It is still a safety issue. Players are still getting concussions, sometimes hitting their heads on the turf.

The issue has never been resolved, but the Consumer Product Safety Commission, which was created by the Moss–Magnuson bill, has never gone into the issue. We only did it once, and I'll tell you what happened. For this particular hearing, which was held in the main Commerce Committee room, there were six television cameras. The Ranking Republican on the full committee was there. They were ex officio on every subcommittee.

**KOWALEWSKI:** Was this [William Lee] Springer?

**LEMOV:** Yes. Springer was there. All the subcommittee members were there, and everybody wanted to question the football players. We got off to a flying start. So, now we were on to Moss' first major piece of consumer legislation, the Consumer Product Safety Act.

**KOWALEWSKI:** All right. Yes. Well, let's stop here for a quick break because we're running out of tape, and we'll change CDs. We'll pick up, first committee hearing on the Consumer Product Safety Act.

**END OF PART ONE ~ BEGINNING OF PART TWO**

And we're back after a short break. And right before we broke for a quick discussion—I guess not a discussion—but right before we broke for a quick break, you were talking about the first hearing that you were involved in—or at least the first hearing for the consumer product-safety bill, in particular how the AstroTurf discussions went. And you wanted to mention something about Broyhill, what he divulged during those hearings.

**LEMOV:** Well, there were many hearings on the Consumer Product Safety Act. Moss basically delegated the structure of the hearings and the order of the witnesses to the staff, and that was me, basically. We had many requests, and we tried to hear all sides. We always tried to get an interesting witness first, like the football players. Then we would bring on the industry and the government. We always tried to get our interesting witness in before the press filed their stories at around noon.

**KOWALEWSKI:** Okay.

**LEMOV:**

Sometimes the hearings would continue into the afternoon. Moss had long hearings. Some of them went into the early evening. Of course, it was hard for the press to pick up those late comments.

At one point Broyhill made a comment on the proposed Product Safety Act. He said, "I don't agree with everything in this bill before us—," and the Nixon administration had a bill too. But he said, "No one can read the report of the National Commission on Product Safety without believing that the federal government has a fundamental responsibility regarding the safety of consumers." Implicitly, he was saying "we need to meet that responsibility." I thought that was a pretty big opening.

So, the hearings went on. I remember at one particular hearing, a trial lawyer was testifying about the hazards of children's pajamas. There were still hazardous children's products on the market which could catch fire. One of them was pajamas, which were not covered, for some reason or other, by the Flammable Fabrics Act. It was an example of narrow drafting of legislation for specific hazards, rather than giving overall jurisdiction to one agency. We attempted to correct that in the product-safety bill. But the leadoff witness in that hearing was a trial lawyer who had had a case dealing with a badly burned child.

I don't remember the exact testimony about the severe injuries, but the trial lawyer proceeded to put a pair of children's pajamas on a metal tray on the table of the hearing room in the Rayburn building. It was one of the smaller rooms. This was a public hearing. There was press present. He struck a match to one sleeve, and the pajamas were engulfed in flames in a matter of seconds. The flames were so high that, sitting next to Moss in front of the table where the witness was, I actually pulled back from the heat and was concerned that we might be singed. The flames, I remember, reached almost to the ceiling in

Room 2218 in Rayburn. That's how dramatic it was. It certainly caught everybody's attention—an example of graphically demonstrating to the public and the press the importance of the legislation.

Well, after hearings ended, we went into markup. The subcommittee was deadlocked. There were a lot of big issues that seemed to be difficult to resolve, but the biggest one was, was there going to be an independent Consumer Product Safety Commission, or was product safety going to be put into the Department of Health, Education, and Welfare, which is what the Nixon administration wanted. That's what their bill provided. We were in markup for a long time.

At one point, after several days, Jim Broyhill looked down at me. I was sitting at the counsel's table in front of the podium. The subcommittee, all seven of them, were arranged in front of us. If they weren't all there, everybody had a proxy with the chairman or with Jim Broyhill. So, there were seven votes up there. Next to me was Charlie Curtis from the full Commerce Committee staff, who was an able counsel who mostly adopted Moss' perspective. On the other side of me was the Republican counsel, I believe it was Tom Greene at that time. Lewis Berry, by this time, was the chief Republican, or minority, counsel. He had worked with several other people, including Nancy Nord, who, years later, became acting chair of the Consumer Product Safety Commission.

Broyhill motioned to me—not Greene, not Lew Berry—to me to come up to the podium. Moss and Broyhill sat next to each other, shoulder to shoulder, perhaps a couple of feet between them. So, I walked around the table, up the stairs, all the way behind the Members, and leaned over Broyhill on the side away from Moss. Broyhill said to me, “Mike, tell the chairman we will trade him the independent agency for the consumer advocate.”

I have to mention, the consumer safety advocate was another major provision of the bill, which we had written. It would have created, essentially, an office whose job would have been to advocate the pro-safety or consumer position before the commission. It was, essentially, a small Consumer Protection Agency [CPA] of the type that the consumer groups tried to create later on in the 1970s, a CPA. It's kind of like what President [Barack] Obama has just managed to get established with Congress' approval, in the Federal Reserve Board, for financial products. So, we had one in the Consumer Product Safety Act. The business community opposed it, to say the least.

Broyhill said to me, "Tell the chairman we will trade him the independent consumer safety agency for the advocate." Now, why he didn't turn to Moss, who was sitting on his right, two feet away, and say that, I'll never know. So, I walked around Broyhill, I walked around to Moss' other side, and I said, "Mr. Moss"—I always called him Mr. Moss or Mr. Chairman. I said, "Mr. Moss, Mr. Broyhill says he'll trade you the agency for the advocate." Moss didn't look at Broyhill. He didn't crack a smile. He just said, "Okay. That's okay." I walked back to Broyhill and said, "It's a deal." The bill was reported out that day or the next day to the full committee, and it passed virtually unchanged. That is an example of Broyhill compromising with Moss on a big issue. We gave up something big, so did he.

It is an interesting question: why did Broyhill ask me to come up? Why didn't he ask Republican counsel to come up? Why didn't he just turn to Moss and talk to him? I've thought about this over the years, because the incident has stayed in my mind. I remember the room. I remember walking around the Members' chairs. I remember feeling a lot of pride that the Ranking Republican had talked to me about, you know, a major issue. I think Broyhill trusted me to act as professional staff, in this and other things.

Why didn't he talk to Moss? Well, Moss was a bit distant and aloof, and pretty tough. Broyhill was a North Carolina gentleman. He was wealthy. He was a moderate in many ways, although he was a businessman, he came from a major corporate family in North Carolina. I think he sometimes felt—although he worked against Moss on many issues, they made it work. But I do think that Broyhill was perhaps a little bit put off by Moss' populist tone and his forcefulness. Anyway, that moved the product-safety bill to full committee, where it went through easily. The Broyhill–Moss compromise held. There were no major changes in full committee.

But then there was the Rules Committee. Do you know about the Rules Committee incident?

**KOWALEWSKI:** Oh, sure. Bill [William Meyers] Colmer?

**LEMOV:** Yes. You know about that one. Do you want me to tell you the whole story?

**KOWALEWSKI:** Yes, absolutely.

**LEMOV:** Well, the bill—the Consumer Product Safety Act—was a big milestone in consumer protection in the 1970s. It looked like Moss' first great victory in the Commerce Committee. It went to the Rules Committee before floor consideration in the summer of 1971. It might have been 1972.

**KOWALEWSKI:** For which?

**LEMOV:** Consumer Product Safety Act, reported out and referred to Rules.

**KOWALEWSKI:** It would have been '72.

**LEMOV:** Absolutely right, because it was signed by President Nixon in the fall of 1972.

**KOWALEWSKI:** October 27th.

**LEMOV:** Just before a congressional election. We reported it out in the summer of 1972. It sat in the Rules Committee. It didn't move. Moss didn't know why it wasn't moving, and I didn't know why it wasn't moving. One day, I was walking down the hallway in the Rayburn building when a gentleman approached me whose name was Joe Miller. Joe Miller was a lobbyist for the Maytag company, which made washing machines and other home appliances. They had this wonderful ad of a repairman in a rocking chair, sitting next to a Maytag, folded hands, saying, "I have nothing to do, they never break." They made a pretty good product, they believed.

Joe Miller was a wonderful guy. He and I had gotten friendly because he was a racing fan—loved horse racing. He used to go to Delaware Park [Racetrack]. I loved horse racing too, when I could afford it. {laughter} I couldn't afford Delaware Park, where Joe went. So, we used to talk to horse racing, and one day he had invited me to go to the racetrack with him. I went out to the racetrack with Joe, and we had lunch. He probably paid for lunch, and we had a great time at Delaware Park one Saturday. He had been a journalist in his early days, and maybe the work got harder, and the hours were long, so he went to work as a lobbyist for Maytag.

Anyway, I was talking to Joe about the fact that the product-safety bill had not yet moved out of the Rules Committee. He said to me, "Don't you know? The Chief Justice of the United States has gone to Congressman Colmer"—the chairman of Rules, a Democrat from Mississippi—"and urged him to block the bill, and it's never coming out." Miller said, "It's dead."

I said, "What are they saying?" Miller said, "I don't know, but they put enough pressure on the Rules Committee, so it's not coming out." The

Broyhill–Moss compromise was dead. Moss’ victory was dead, and the session of Congress was winding down.

So, I walked over to Moss’ office immediately. Moss picked up the telephone. He used the press for the first time that I remember. He somehow seemed to know how to use it—maybe from his FOIA days, maybe from his own instinctive abilities. He called the columnist Jack Anderson first, I think, and then the *New York Times*. They both ran stories saying “Chief Justice lobbies House Rules Committee to kill product safety bill.” The story went all over the country.

**KOWALEWSKI:** And Carl [Bert] Albert.

**LEMOV:** Yes, he got into it later. My recollection is that Albert denied that there was any effort to pressure the House, so I guess they must have approached the leadership too.

**KOWALEWSKI:** Yes, there were rumors kind of afoot.

**LEMOV:** Chief Justice [Warren E.] Burger had sent a man named [Rowland] Kirks—he was the chief administrator of the courts—along with a wonderful character named “Tommy the Cork”—Thomas Corcoran—who had been a New Deal Democrat and was a big lobbyist around Washington. I won’t say he was the Jack Abramoff of his day, because to my knowledge he was never involved in a scandal. But he was a big-name lobbyist.

Corcoran was pleased to admit that he had gone to see the Rules Committee, and probably Albert as well, and that he did most of the talking. Kirks, from the administrative office—Justice Burger’s representative—mostly sat there and nodded his head yes, yes, yes. The big argument they had made was that

the Chief Justice believes the Consumer Product Safety Act will clutter up the federal courts. He urged the Rules Committee and the House to kill it.

Moss lit into the Chief Justice. He said it was an outrageous interference with the legislative process. The proper way, if he wanted to make his concerns known, was to come before the subcommittee and not do an end run. It was really embarrassing. Albert was forced to issue a statement—Speaker Albert—saying that he had no opposition to the product-safety bill, but he was willing to hear from people who approached him.

I think it was probably improper of him to even get involved, and certainly, it illustrated the power of the Rules Committee in those days. Here the committee had spent a couple of years—and if you count the national commission, four years—on a bill. In about one month, Colmer and the Rules Committee were about to kill it. But after the heat Moss put on them through the press, they relented and reported it out. It went to the House Floor, and it passed.

Then it went to conference with the Senate. The staff was involved. First of all, in—I sat there while Moss called the *Times* and Jack Anderson. I sat there in the House–Senate conference, advising our Members. I sat directly behind Moss. In the conference, there wasn't enough room at the table. There were so many members of the conference committee sitting around the big table—Senators and House Members—that we sat behind the Members.

The Senate had produced an entirely different bill than the House. It surprised us. Was it Magnuson's desire to show his independence from the national commission and the House? A bargaining chip? Whatever. They decided to move the entire FDA into the Consumer Product Safety

commission. They had a lot of other provisions, which were very unusual and new.

Ultimately, they gave up on 95 percent of them, and the House bill came back to the House and was approved. It was pretty much the national commission bill, without the safety advocate, which was Broyhill's big compromise with Moss.

It passed, and it was signed by President Nixon even though the Nixon administration worked very hard to substitute a much weaker bill. Not only in the location of the agency, but the powers, the standard-setting powers in the Nixon bill, as I recall, were very much oriented toward the business community and the acceptance of voluntary industry standards. The penalties were much less. The Nixon bill was 95 percent ignored. The Senate bill was 95 percent ignored, and it was basically the Moss NCPS bill that was passed. So we had our first big consumer win. Morton Mintz, writing in the *Washington Post*, called it a milestone for consumers. The *Times* called it one of the most important consumer bills of the decade.

**KOWALEWSKI:** That's great. I have some more specific questions. I was going to ask you about Morton Mintz because he essentially covered the Congress beat for the *Post*. You know, he broke the Nader story when he was being trailed by GM and whatnot. But Springer was in conference, correct?

**LEMOV:** Yes, he was.

**KOWALEWSKI:** And that was his last term. So, from what I understand, he was willing to sit and wait until the Senate essentially bent to the House regarding the changes in the conference committee—that he was in no rush because he was going to be leaving anyway because that was his last term. And that, in some

respects, the Senate had to bend to Springer's own will. Is that what you remember?

**LEMOV:** Not really.

**KOWALEWSKI:** Okay.

**LEMOV:** I'm sure Springer was there, but I think Broyhill was the primary mover in the conference.

I'm sure Springer was forceful for the House bill. But I think the House conferees were pretty united. I would agree with that. So, Springer was clearly involved and had his Republicans in line, but it didn't matter then because Stuckey didn't have blocking power anymore. In any event, he was going along with the Moss–Broyhill compromise. I believe if Broyhill compromised, Stuckey compromised.

**KOWALEWSKI:** Okay.

**LEMOV:** Stuckey never went to the right of Broyhill, as I remember—it happened again in other legislation later on—what I think, is that the Senate just realized there was going to be one heck of a fight over moving the FDA. Moss didn't really want it. It seemed too much. It would have involved more hearings before Rogers' subcommittee about the FDA. Moss would be stepping on Rogers' toes, and Rogers was a Moss ally. We hadn't had hearings on the issue, and the Product Safety Act was pushed primarily as a bill to close gaps in federal regulation and establish safety jurisdiction over all consumer products in or affecting commerce. There already was regulation of food, drugs, and cosmetics. So, my impression is, the Senate ultimately saw that there was no future for their substantial departure. They decided that the House bill was good enough.

**KOWALEWSKI:** What was Staggers' reaction to all of this? Because it's been said that Staggers preferred consumer issues to come from the White House, and that he would prefer that the Nixon administration dictate that policy rather than coming from the legislative branch. What do you remember about his reaction to that?

**LEMOV:** Well, my recollection is, he played no role.

**KOWALEWSKI:** Okay.

**LEMOV:** Basically, once that bill was in conference, Moss was in charge.

**KOWALEWSKI:** Moss was in charge.

**LEMOV:** I might mention something else that Moss told me about Staggers years later, when I interviewed him in 1994, about three years before he died.

**KOWALEWSKI:** '97. Yes.

**LEMOV:** 1915–1997 was his life span. In about 1994, I interviewed Moss about the Commerce Committee. Moss said to me, looking back over the years, “Harley [Staggers] was a nice man. He just did not like a fight. Sometimes you can't compromise,” Moss said. “Sometimes you have to fight.”

**KOWALEWSKI:** Okay.

**LEMOV:** Once Staggers had seen Moss' determination and power on this bill—and similar things happened on other bills later on—Staggers pulled back a bit. You know, Staggers was a football coach. I'm sure he went to college, unlike Moss. He was essentially, in his heart, a team player. But I think he was in over his head. I mean he was a nice man—white-haired, friendly, soft-spoken. But I just think Staggers kept the staff small, kept the power of

starting hearings and managing bills to himself because he was really afraid of these big issues.

Maybe he was impressed by the power of the Business Roundtable, which came later, the chamber of commerce, the NAM, the [Association of] Home Appliance Manufacturers, the Chemical Specialties Manufacturers. They were powerful. He was a guy from West Virginia—a small town in West Virginia. His family worked for the railroad. I just think he was out of his depth. Moss didn't really want to fight with him, but Staggers just wouldn't get out of the way, and he wouldn't compromise over control, structure, and staff. And so, Moss had to take him on, head-on.

**KOWALEWSKI:** Throughout this year-long—essentially, 18-month—deliberation on the consumer bill, how often were you in communication with the Senate? You knew Pertschuk from way, way back from when you were at the commission.

**LEMOV:** Right.

**KOWALEWSKI:** He essentially ran most of that committee because Magnuson allowed him to, and he hired everybody—and Senators, of course, their interests are spread between many more committees than House Members. So, how often were you in contact with the Senate?

**LEMOV:** Well, we were in pretty regular contact with the Senate. But you know, with Moss in charge, with me coming on as counsel to the subcommittee, we knew the bill well. We wanted a bill as much as Pertschuk did. Mike recognized the comity necessary between the two houses of Congress. So, at no time did we ever ask Mike what to do, or for substantive advice. I think I may have used Mike as sort of a sounding board, and he was always a supporter, you know. But I would say, not that much contact with the Senate.

**KOWALEWSKI:** Okay.

**LEMOV:** Now and then we'd meet or talk. I think he was pleased at the way things were going in the House. But there was little or nothing he could do, anyway. We had to fight our own battles. And Moss was tough as nails. I suppose Mike may have called Moss once in a while, but I don't think very much, because Moss never mentioned it to me.

I think Magnuson went through Pertschuk, and Moss went through me, and Mike and I talked once in a while. But there was no joint planning, "Should we have this witness?" or "What kind of bill should we, or they, write?" They didn't ask us, and we didn't ask them. Lynn Sutcliffe handled the bill, by the way, in the Senate committee.

They never told us they were going to put the FDA in there, which would have thrown our committee into fits. It was a complete surprise when we saw the Senate bill. So the answer is, we had little contact. As a friend, yes, we probably had dinner together once in a while. Perhaps we went out with our families, but no great substantive contact.

**KOWALEWSKI:** Okay.

**LEMOV:** I mean Pertschuk picked a guy for the NCPS who he thought was going to do what he believed in, anyway: me. And Moss was probably going in the direction Magnuson and Pertschuk thought was right. We didn't need to have much direct contact.

**KOWALEWSKI:** [Arnold B.] Elkind also testified before the committee. He was one of the first witnesses—one of the earliest witnesses. Had you been in contact with him at all leading up to that? How did you get in contact with him? How did you convince him to testify?

**LEMOV:** Oh, there was no convincing necessary.

**KOWALEWSKI:** Okay. {laughter}

**LEMOV:** Elkind's heart was with the commission report and its proposed law. He loved that little commission. He loved the staff and the other members. It was a very good, collegial commission. He believed the bill should go through. So he was happy to testify. We never talked to him about what he was going to say. It's funny, I'm sad now that I didn't stay in touch with him more, because he was a grand guy. He gave us our head, and he liked what we did, and he wanted it to pass in Congress as a federal safety law, and it did. I guess he felt it was kind of his legacy. It was, and is, his legacy too.

**KOWALEWSKI:** Along those same lines, what was the subcommittee's relationship—or anybody—with Virginia Knauer, Nixon's special envoy, essentially, on consumer issues?

**LEMOV:** Right. I think she testified a few times. There was minimal interaction. They didn't talk to us much.

**KOWALEWSKI:** Okay.

**LEMOV:** The White House position was not ours. Virginia Knauer was a lovely woman, sweet lady, soft-spoken. She had a problem. Nixon wanted to *talk* consumer protection but not *do* consumer protection, and if he supported consumer legislation, he wanted it to be weak—kind of what most of the business community wanted. In other words, you pass a bill that says “product safety” or “Federal Trade Commission improvements” or “toxic substances.” You have the label on it, but you don't give the enforcing agency the power to force real action. Nixon was an extremely adept politician. His public persona was not what he wanted privately. He probably thought Moss

was a left-winger or a socialist or something like that. He was out to cooperate with him in public and cut him off at the knees in private. Virginia Knauer did not step out of line.

**KOWALEWSKI:** Okay.

**LEMOV:** Some people did step out of line on some of the consumer bills during the Nixon administration, and I believe they were never heard from again. But we could talk about that later—for example, Lew Engman and Mark Marks. {laughter} So the answer is, we had very little contact with Virginia Knauer.

**KOWALEWSKI:** Okay. Well, I think this asks some interesting questions about—I don't want to say philosophical questions—but the role of committee counsel is probably one of the most understudied positions in the House as far as staff is concerned, and it's a position not a lot of people are familiar with. So, I was kind of wondering if you could explain some of your daily responsibilities—

**LEMOV:** Sure.

**KOWALEWSKI:** —during markups, prepping for hearings, dealing with other staff concerns. How much you worked with say, Rogers' staff and [Steve] Lawton, how much you worked with the full-committee staff, how much you worked with Staggers', essentially, army of staff at Investigations—these sorts of things. What was the atmosphere like in the committee among staffers?

**LEMOV:** Well, first, the atmosphere was good, despite the controversial legislation we were dealing with. I had a good relationship with the Republican staff. Tom Greene remained a friend for many years. Bernie Wunder, who was staff to the Ranking Republican Jim [James Mitchell] Collins at one time, after Broyhill moved on to another subcommittee. And Lewis Berry was a gentleman.

The staff relationship was fine. Everybody worked together, at least personally. We just knew that the Republicans would normally walk into the markups in lockstep from their caucus room and vote against our consumer bills. Of course there were some exceptions. But generally, we had to have all or almost all of the Democrats together in full committee to defeat them. I think we may have had a five-vote margin on the full committee. It was very close. We've already talked about the subcommittee voting problem, only a five-to-four Democratic majority. But the staff relationship was outstanding.

Actually, I took pleasure in helping Jim Broyhill sometimes. He'd ask—at various times—Broyhill asked me to look into a problem a constituent had or an issue, a fact issue. We always responded with whatever information he needed, or we would talk to whoever he wanted us to talk to. The policy applied to other minority members.

One day Jim Collins came into my office when I was chief counsel of the Oversight and Investigations Subcommittee and asked if he could look at the subcommittee files. I had either talked to Moss about this in advance, because I had been told by Tom Greene or Lewis Berry in advance, or I knew Moss' position. I said, "Absolutely, Mr. Collins, come right in." So, he sat in my office, and he asked for a file on this or that, and he sat there and read it right there because Moss had said no copies could be made. Now these files were often many filing cabinets deep. So, Collins spent a half an hour, an hour or so reading some files, and I gave him anything he wanted. He left and never came back. Moss wouldn't let him make copies, but the rules required that Members have access to the files. They didn't say anything about copies. Without copies, access was almost useless.

So, the relationship was fine, courteous. Jim Collins even tried to send me Husky Oil Company as a client when I left and became a lawyer in private

practice. He called me and said Husky was looking for a lawyer in Washington, and could I help them. I said sure. I never got them, but Jim referred them to me, and I appreciated it. Bernie Wunder, his counsel, called me once and sent me a small trade-association client, which I represented for 20 years. So, it was a fine staff-and-Member relationship. The legislative differences did not become personal.

The Republican staff always did much better than we did after they left the Hill. They had been working with—I can only assume they'd been working very closely with the business community. I often saw the business lobbyists go into the Republican antechamber next to the Commerce Committee's hearing room to talk with them, and I suppose people came into the majority antechambers as well. So, when they left the Hill, the Republican staffers were sitting in clover in terms of potential clients. We had to work a lot harder, but some of us did it. Some of us survived. {laughter}

**KOWALEWSKI:** Were you a member of any of the staff organizations that were around the Hill?

**LEMOV:** No, I didn't have time for that.

**KOWALEWSKI:** You didn't have time.

**LEMOV:** They may not have been in existence then. It's a good idea to do that, however. You raise another interesting question. You were talking about the role of staff. Where did the bills come from? I mean, I was thinking about that. Where does legislation originate?

It comes from different sources. There was the commission—the national commission is one example. The FTC Act kind of grew in stages and was drafted by the two committees, based upon general information from the

Federal Trade Commission about what they needed to be effective. It was based upon investigations of the usefulness of consumer warranties over on the Senate side, and later by our subcommittee.

Where did the Motor Vehicle Information and Cost Savings Act come from? Initially, from the Insurance Institute for Highway Safety [IIHS], which was interested in the subject—from the insurance industry, really. IIHS was their nonprofit interested in cutting down the cost of paying for damaged cars. Don Randall, the Senate staff person who worked for Senator Phil [Philip Aloysius] Hart, played a major role.

We always modified drafts we received—sometimes from consumer groups, sometimes we thought the bills or provisions up ourselves. Sometimes, the administration would send a bill up. But in those days, their bills usually were unsatisfactory from our point of view. They triggered an idea, maybe. But we didn't use them, even as a model.

Toxic substances, for example, came from the Council on Environmental Quality, which was a Nixon administration agency, but we tried to change it dramatically in both the Senate and the House. No-fault automobile insurance, from the insurance industry, mostly. Yes, parts of the insurance industry were behind no-fault. What did I leave out? School bus safety we conceived of ourselves, in order to make the motor vehicle safety legislation, the 1973 amendments, more appealing to the public.

We had a bill to give NHTSA [National Highway Traffic Safety Administration] recall authority. They didn't have recall authority. Congress had set up the agency in 1965—the National Highway Traffic Safety Administration, which had responsibility for motor vehicle safety in the United States. There had not been any agency before that time. 1965 marked

the first time the federal government regulated motor vehicle safety. I think the death rate from accidents was about 50,000 people a year then. However, they made a small error. They forgot to put in the authority of the agency to mandate a recall of, let's say, a Toyota or a Ford model car. They had no authority. It had to be done cooperatively with a manufacturer.

So, our subcommittee, and ultimately the House, passed a bill, along with Magnuson in the Senate, to give them that authority. Moss went further. Moss slipped in a provision which gave them so much clout, they could have caught Toyota over unintended acceleration after the first few crashes. Unfortunately, they did not use that authority. The Securities Investor Protection Act, which was enacted just before my tenure, was a Senate idea, I think, improved upon in some ways by Moss.

So, where did bills come from? Usually from people and organizations who were interested, including government agencies. Congress doesn't usually—from my experience—doesn't usually initiate the bills itself. Sometimes it sets up a commission to look into a subject. Or a committee investigates a problem. But usually, they're the idea of some organization or interest group or a professor or somebody like that who comes up with an idea. A need is demonstrated, and Congress reacts. It doesn't usually plan in advance to legislate. That was my experience.

You talked about the relationship among staff. I would like to mention the size of staff—a tremendously important issue. When I joined Moss and the Commerce and Finance Subcommittee, the House Commerce Committee had exactly four professional staff members who handled all of the legislation in Commerce. I checked with Don Ritchie, the Senate Historian, who told me that the Senate Commerce Committee had 50 members on its staff in 1970. Now, they may be counting some clerks in that 50, and of course

House Commerce had more than four if you count the supporting staff and clerks. But I would say the Senate Commerce professional staff was at least 10 times as large as the House Commerce staff.

In addition to the professional staff situation, I do remember that when I got to the Commerce Committee, the chairman of the full committee, Mr. Staggers, and before him, Oren Harris, authorized all subcommittee proceedings. First of all, the chair referred legislation to the subcommittees only when they chose to do so. They authorized the commencement of hearings only when they chose to do so. They selected the staff that would staff a bill, even though the subcommittee chair might have different ideas than the staff he was given. They decided to take the bill up in full committee or not, and they sometimes led with amendments or changes as they saw fit. They managed a bill on the House Floor and in conference committee. The subcommittee chairman was a sidekick. The full-committee chair gave the subcommittees their budgets for travel, supplies, staff. Every check was signed by the committee clerk, or whoever had the signing authority in the full committee. The point is, in Commerce, the subcommittees were very subordinate, and I would say they were not functioning with anything like the efficiency and the power that they gained in later years.

I'll make one additional comment on committee staff at that time. Moss, Dingell, and Rogers had proposed new rules for the committee in letters to Harley Staggers in 1969, well before the changes in the 1973 caucus rules—even before the Education and Labor Committee adopted new rules in the early 1970s. Moss wrote to Staggers with a long list of proposed reforms of the system. Paul Rogers was on the letter, as was John Dingell. A second letter, a few days later, lays out exactly what they wanted for the subcommittees—perhaps ahead of the curve, perhaps not.

On a different, but related, subject—the influence of lobbyists—in 1965, Drew Pearson had written a column in which he said the Senate had sent over the new national auto safety bill to the House Commerce Committee, which was known as the graveyard of consumer legislation. Pearson had said that somehow the lobbyists were bragging that they have the House Commerce Committee in their pocket. He said that the staff seemed apathetic and overly influenced. This is a direct quote: “apathetic and overly influenced by the auto dealers.” And that the chairman was not enthusiastic about the bill. So that was what Magnuson and Pertschuk had to overcome, and Moss, too. He was on the committee then, but he was junior. He didn’t have the position that he had later on.

They did overcome the opposition. They managed to get an auto safety bill out of the House. It was not the bill that the consumer groups wanted, but it was a pretty good bill, which Moss strengthened in 1973. I just wanted to go back—and looking at staff when I first observed it, perhaps it [the committee staff] was sometimes cozy with lobbyists.

Perhaps because it was so small, and they were probably a bit intimidated—overwhelmed with contacts by many powerful people. After a while, they didn’t show enough fight, enough independence. Also, they didn’t have loyalty to the subcommittee chairman’s own agenda. They were working for a full-committee chairman who had no real agenda, except to keep things going smoothly and quietly. That was the staff situation, and as I found it in 1970.

**KOWALEWSKI:** Did you meet with Stagers or Springer when you were hired?

**LEMOV:** No. Moss hired me directly. I never met Stagers until a full-committee markup later on. Here’s an anecdote. I have to tell you this one. It happened

after Steve Lawton and I were hired by Moss and Rogers, respectively, in 1970. We were supposed to be working in the office of the Members to handle subcommittee matters, but not in the committee offices and not with committee staff on legislation. Not in subcommittee meetings or markups and not, of course, in full committee.

Moss had an entirely different idea for the role of his counsel. I was going to be the counsel all the way through the legislative process. Lawton apparently had the same idea from Paul Rogers. So, Steve and I walked into a full-committee markup very soon after our appointments. We really weren't aware that we were supposed to be letter-answerers in the office of the subcommittee chairs. We sat in the front row. At the table were the full-committee counsels. Bob Guthrie was there, as I recall, and perhaps Charles Curtis, and the minority counsel and legislative counsel. Up on the dais were all 35 members of the full Commerce Committee, in that gorgeous hearing room—wood-paneled, lined with pictures of former chairmen.

So Stagers said within a few minutes after it started, "What are those two gentlemen doing here?" Ed Williamson, the clerk of the committee, must have said to him "They are Mr. Moss' counsel and Mr. Roger's counsel." He said to us, "Would you please leave? Leave the room. This is a full-committee markup. You're not permitted in here, it's private." We nearly fell through the floor with embarrassment. We got up, and we walked out the door, and it was slammed, it seemed, behind us.

But it seems Stagers had overreached. He embarrassed the committee members themselves. [Austin] John Murphy (D-PA) later saw us in the elevator after that markup. He said, "I'm really sorry about that." Murphy was an ally of Stagers, not of Moss. He voted for Stagers and against Moss in later battles, but he was personally embarrassed. So, the next day,

{laughter} when I was meeting with Moss for our almost daily-conference, Moss said, “I’m really sorry for what happened. Come right on in next time. It will never happen again.”

I can only imagine what happened in the full committee after Staggers did that to Lawton and me. From that time on, I came in to all subcommittee and full-committee sessions. First, I handled the bills completely. Myself and Harvey Rowen, on the securities side, handled the bills in subcommittee—took them up to the full committee and sat next to Charlie Curtis or Bob Guthrie, and answered the Members’ questions.

Actually, I had the main role on product safety. The committee staff yielded to me on everything because I was the guy that knew most about it. On the Federal Trade Commission bill, it was probably jointly done by Bob Guthrie and myself. We worked well together, and you really needed two staff members, the bill was so complex. But that effort by Staggers to maintain his old line of demarcation in staff prerogatives, and ultimately the chair’s control, was destroyed when he threw Lawton and me out of that room.

**KOWALEWSKI:** This brings up my next question. How often did you work with Moss’ personal staff? In a letter, from ’72 I believe it was, Moss wrote to Staggers complaining about the staffing situation and said, “I’m going to reserve a member of my staff who’s familiar with consumer issues to help you deal with the committee burden.” Did you work with Moss as personal staff, as office staff, on a close basis?

**LEMOV:** Later on, Tom Greene became Moss’ personal staff who handled consumer issues. He was very helpful to us. Later on, he was with the California state attorney general, and may still be. But no, we didn’t have much contact. They had no influence on the hearings or legislation. Moss was really

sensitive to the fact that the subcommittee staff and full-committee staff, whom Moss liked—that myself and Rowen handled all the subcommittee business. I'm sure that personal staff popped in now and then to ask something, and they certainly followed the bills and hearings, but they were not involved directly.

I think Moss probably had a lot of issues come up in his office. People wanted meetings. He'd usually invite me to meetings with lobbyists—especially any agency that came up. If it was within our jurisdiction I was always there, or Rowen was there on securities matters. Sometimes full-committee counsel, also. I'm sure he had Tom Greene—not the other Republican counsel of the same name—or somebody else who did that personal staff job too. But they never had any particular role in the substance of the legislation.

**KOWALEWSKI:** This was also a period when House staff in general really began to expand. Ever since the Legislative Reorganization Act of '70, staff started to grow, committee staff started to grow. It also began to diversify as well. What do you remember during this period?

**LEMOV:** Well, there was a steady growth. If you look at the staff of the Commerce Committee, it expanded from four to six to eight on the full-committee staff. The subcommittees began to grow at the same time. So, if you look at it over the years, there was a clear trend.

I asked Sharon Davis, the chief legislative clerk of the House Commerce Committee, for the numbers. She showed me data which shows a pattern of steady growth up until the end of the decade, including subcommittees. But it's hard to evaluate exactly, because not everybody worked on legislation. Some of them were support staff. There was, however, a definite trend:

growth—perhaps doubling or tripling the size of all staff, counting the subcommittees and full committee combined.

The other thing you talked about was jurisdiction of the subcommittees. I think you said something about Commerce and Finance having broad legislative jurisdiction. When Moss took it over, it was the smallest, least important subcommittee. It had jurisdiction over things like tourism, travel, and time zones. It had this obscure statement: consumer legislation and product labeling. That is what they thought was consumer legislation, labeling. The rules said product labeling and consumer matters. The main thing in the mind of the draftsman of the committee rules was labels on products, like, don't put your hand in the oven, you might get burned. You know, it's the kind of stuff which lawyers do, but it doesn't mean much in protecting the consumer.

Then there was securities markets jurisdiction. Nobody knew what that meant, and there hadn't been a securities bill out of Congress of any significance since the 1930s, until Moss and Ed [Edmund Sixtus] Muskie put through the Securities Investor Protection Act in the late 1960s. That was over the do-or-die opposition of the New York Stock Exchange and most of the securities industry. SIPC [Securities Investor Protection Corporation] was a breakthrough, but it was done because of the failure of brokerage firms and a tremendous slump in the stock market in the late 1960s. Brokerage companies were going bankrupt. People were losing their savings. Moss and Muskie looked at Federal Deposit Insurance Corporation in the banking area, and there was nothing like that for stock brokers. So, that's one reason why Moss got more into the securities industry. The jurisdiction was there, and he'd worked extensively on the SIPC bill, but there hadn't been much done other than that.

When SIPC went through, Congress guaranteed the losses of brokerage firms up to perhaps a billion dollars—a substantial federal guarantee. Nobody knew how the industry worked, nobody knew whether there was any effective control over the risks brokers took. If there was a net capital rule, it was voluntary. That means, how much capital did a broker have to have to back up all these small investor accounts and other risks? Nobody knew. Should a broker use the net capital in the business of the securities firm? Of course, they did. They did that all the time. There was no separate deposit, no trust relationship, and there still isn't now.

But the point is that Congress—the leadership of the House—went to Moss and Staggers and said, “We want you to do a comprehensive study of the securities industry, in part to evaluate the risk to the taxpayers.” So, those two words in the jurisdictional statement, “securities markets,” suddenly became meaningful when Moss took over. But you could see from the list of bills that were awaiting action, the jurisdiction was expanding too.

We were thinking about international standardization. We were thinking about other subjects, like food safety, which was a bit of a reach. But food safety was just completed this week by Congress, and it needed updating terribly at that time. It's hard to believe that the Food and Drug Administration didn't have recall powers until this week, when a bill was sent to the President. So, not only did he make a lot out of the jurisdiction he had and the subcommittee he got, but he expanded the jurisdiction. No-fault insurance—who gave the Commerce Committee insurance jurisdiction? It could have been Banking or some other committee. But Moss went for it. He thought there was a need. He may have changed his mind as we went down the road. But he looked at the problem.

**KOWALEWSKI:** Okay.

**LEMOV:** I didn't know about the Stuckey role on no-fault, but we can talk about that if you like. That sort of finishes answering your question about legislative jurisdiction and staffing. A long answer, I am afraid.

**KOWALEWSKI:** No, this is perfect. This was also a period of time when the House really started to adopt different forms of technology: electronic voting in the House Chamber, televised committee hearings, committee hearings broadcast over the radio. What sort of effect did that have on the way the subcommittee, Commerce and Finance, communicated its message to the public?

**LEMOV:** A huge effect.

**KOWALEWSKI:** Huge effect.

**LEMOV:** I told you about the football players and the first hearing on product safety. I don't remember whether we had as many television cameras at other hearings of the Commerce and Finance Subcommittee. I presume at some of them we did, but we had the written press, which was very powerful—much more powerful than it is now, and more numerous. There was significant coverage in all media—magazine, newspapers, radio—of all the legislation we did. Trade press, consumer press. Yes, and Moss was a master at using the press. I have already described the incident where he turned the spotlight on the effort to block the consumer product safety-bill in the Rules Committee. He used the press to embarrass the Speaker and the chairman of the Rules Committee into freeing the product-safety bill. {laughter} The press was very important as technology.

**KOWALEWSKI:** Did he go confront Colmer at all, in Rules, or did he try that avenue first before he went to the press, do you remember?

**LEMOV:** I don't know. I sometimes walked to the floor with Moss, and I was on the floor when major bills were considered. I sat next to him.

**KOWALEWSKI:** Okay.

**LEMOV:** When he spoke on the floor, I sat next to the microphone with the books and reports on at least two bills I can remember—probably three or four. By that time, he was managing the bills on the floor, and Staggers was on the back bench or behind Moss. But did he ever talk to Colmer? I was not there, I don't know.

It's funny. Moss had a great relationship with an earlier Rules Committee chairman, Howard [Worth] Smith, a conservative from Virginia. {laughter} He gave Moss a jump start in Congress. It's a long story. I don't want to digress into it now, because it goes into Moss' early days working on FOIA. We can talk about that if you like.

**KOWALEWSKI:** Sure.

**LEMOV:** Howard Smith was diametrically opposite politically to Moss, but he respected Moss' ability. He did Moss a huge favor early in his career. Colmer was a different story. Colmer would have probably killed anything he could that Moss sent to him. I don't know if he ever met with Colmer directly, or Albert directly, on the product-safety bill. I wouldn't be surprised if he did, because he was very courteous to other Members but aggressive on his issues.

When the Members walked to the floor, they often talked on the elevator, in the lobby, on the floor—all kinds of conversations. I imagine something as big as this, where the Speaker and the Rules Committee chairman were involved, there must have been a huddle in the back of the House Chamber about this.

**KOWALEWSKI:** Okay. I actually had a question about what you said earlier. So, Staggers, when it would come to farming out subcommittee staff, would appoint people to work with a particular subcommittee, correct?

**LEMOV:** That's correct.

**KOWALEWSKI:** Okay, so he would choose. Did he have a favorite counsel, so to speak, that he would appoint to a particular—counsels began to work with subcommittees, and they develop somewhat of a specialization. Did he make it a point to farm them out to that particular subcommittee at a later date, or do you know if he had a rhyme or reason to how he appointed counsels?

**LEMOV:** I don't know how he did that, but I know with our bills, we mostly got either Charlie Curtis or Bob Guthrie, and maybe Jeff Schwartz once in a while, who came on later when the committee staff got to six or seven. But we usually got the same people. I think Staggers probably did it by subcommittee. It would have been a smart idea, so that they would gain expertise in the particular, substantive area. I think perhaps Curtis and Guthrie liked working with Moss.

**KOWALEWSKI:** So, what did you learn from watching Moss and Broyhill interact and negotiate and compromise? What did you learn from Moss? This is just as your first three or four years when you were on Commerce and Finance. What did you learn from Moss? What did you learn from Broyhill? From [Robert Christian] Eckhardt, from [John Yetter] McCollister, any of those guys?

**LEMOV:** Great question. Well, from Moss, tenacity and courage. You just couldn't see Moss without observing that—plus, a commitment to the little man.

From Broyhill, courtesy, dignity, willingness to compromise, and keeping commitments. When Broyhill said he was going to be with us on the Federal Trade Commission Improvements Act or the Consumer Product Safety Act, or the auto safety bills, he stayed with us, even though he must have been under some pressure from the administration to back amendments, which would have weakened them. He did not break his word, ever—that I remember. I can't remember a time when Jim Broyhill ever went to the floor—and there were always floor amendments—to try to weaken subcommittee bills. Some of the amendments carried. I'd have to look back and see how Broyhill voted on the ignition interlock, which was a [Louis Crosby] Wyman amendment to Moss's auto safety bill.

Congressman Wyman, R [Republican]-New Hampshire, in an effort to undercut passive restraint systems—which are now mandatory in all cars—Wyman wanted to delete the ignition interlock and at the same time block airbags, or passive restraints. Moss tried to save the ignition interlock. I don't know how Broyhill voted. But I would say Broyhill stayed with his commitments, with the agreements that he made with Moss in committee. It was a pleasure to work with him. Broyhill had a big role in the securities amendments of 1975.

Harvey Rowan, Moss' securities counsel, told me that he and Broyhill and Eckhardt worked out a lot of the details, but that Moss approved every substantive change. But Moss stepped back, I think because it was such a complicated area, and I think because Moss didn't want to fight with him. He knew Broyhill was in a difficult position. He let Eckhardt do some of the negotiation. It will come up again in connection with the FTC bill, where Eckhardt did some negotiation in the committee, which got Moss really

upset. Eckhardt was writing amendments right up on the dais. He was a very creative man, a personable man. He had a good relationship with Moss.

From Eckhardt, I learned a populist approach. He was always trying to improve bills, like Moss, and they were very close, substantively. But Eckhardt was a natural compromiser, not in a bad sense. He would always try to draft something between the two sides. Moss would hold the left, or consumer, side of these laws. Broyhill would hold a moderate business position. Sometimes Eckhardt would try to get in-between and create an agreement. Moss sometimes got angry. Once he said to me, he whispered to me, "You know, will he never stop drafting these compromise amendments? Would you go down there and take his pen away?" Moss told me to go take Eckhardt's pen away. Of course, I didn't do anything like that.

So, there was that Eckhardt in the left-middle and Broyhill and Moss on the two sides. It was a good subcommittee. It worked. Somehow, it worked. A counsel to Eckhardt, Peter Kinzler, told me that "every movement needs its leader. And without a leader, there can't be any compromise." Moss was that leader, and Broyhill and Eckhardt brought about a degree of compromise, which, ultimately, were passed by the Congress.

Business did not get everything it wanted. They got some things. I think that they didn't get as much as they wanted. And, of course, it wasn't only business. Sometimes it was government. Moss was up against federal agencies sometimes. But mostly, Moss fought big business. Sometimes companies helped us, like Maytag or Toro or Sears. They got something. They didn't get as much as the public got out of our subcommittee and out of the Congress in the 1970s.

It's amazing, because the 1970s are often written about by historians as an era of transition, inactivity, conservative swing, lack of faith in government. The accepted wisdom is that nothing much happened between the liberal Kennedy–Johnson '60s and the conservative Reagan '80s. The 1970s were, as somebody once described them, “a pet rock.” The 1970s were a pet rock. {laughter} But that was not true in the House Commerce Committee. It was different, until the doors slammed shut in 1976.

On progressive, consumer, proinvestor legislation, the House Commerce Committee did a heck of a lot.

**KOWALEWSKI:** How was it viewed throughout the rest of the House? Do you know how other Members viewed it? How other committees viewed it?

**LEMOV:** We had nothing but friendly relations with the other House committees. I think there was a bit of envy that Moss was cranking out so much legislation, and getting so much press. They tried to emulate him. I think we probably—I can't prove this—but probably we set a tone. Leonor [Kretzer] Sullivan in the House Banking Committee was well known for her work on consumer financial legislation, such as the Truth in Lending Act and the Fair Debt Collection Act. So, clearly, she was doing it too. But I think Moss' activities supported her. I'm sure some of the other committees also saw that working on behalf of the consumer and, more broadly, the public, with the press watching, could get you some strong support, some credit, and ultimately some votes.

**KOWALEWSKI:** Well, we fit a lot in today. I wanted to bring it up to the Consumer Product Safety Commission bill today. Did you want to—we could continue to talk, if you'd like. Or we could hold off until a later date, but we've covered two-and-a-half hours'—more or less two-and-a-half hours' worth of material.

**LEMOV:** Well, it's fine either way that you want to do it. What I was prepared to talk about now, or at a later date, was the other legislation before the Commerce and Finance Subcommittee, particularly the Federal Trade Commission Improvements Act, the securities amendments of 1975, the two motor vehicle bills—one, the Motor Vehicle [and School Bus] Safety Act of 1974 and the Motor Vehicle Damageability Act [Moss–Hart–Magnuson Automobile Damageability Act]. Also, there was no-fault insurance, and toxic substances. I can move rather fast if you want to. But on the other hand, the latter bills, toxics and no-fault, marked the beginning of the end of the wave of consumer protection. There were different results.

**KOWALEWSKI:** Okay, well, let's talk about the Motor Vehicle Information and Cost Savings Act first.

**LEMOV:** Okay, sure.

**KOWALEWSKI:** Because that also happened in 1972. That was along the same lines as the Consumer Product Safety Commission Bill. Let me change CDs first.

### **END OF PART TWO ~ BEGINNING OF PART THREE**

We're back, for a third time. Where we left off, we were going to talk about the Motor Vehicle Information and Cost Savings Act, also passed in 1972—which, if you look at that year as a whole, was kind of a banner year from a consumer perspective. If you're interested in consumer legislation, that year passed two pretty major bills.

I guess the scope of the motor vehicle bill isn't that big. It set standards for, essentially, lessening the cost of repairs. But I'm kind of curious as to what kind of deals were worked out, how that process went, what you learned from the consumer bill—even though those were going on simultaneously—

and whether one bill informed another bill and kind of the mechanics, so to speak, of how these bills became law.

**LEMOV:**

Well, the Motor Vehicle Information and Cost Savings Act was one of a group of consumer bills that were sitting on Moss' desk when he took over the chairmanship of the Subcommittee on Commerce and Finance. Perhaps not immediately when he took it over in 1968, but ultimately by 1970 when I got there, they were all sitting on his desk. He took up consumer product safety first, at my suggestion, probably, and also because we knew the most about it. Then we took up Motor Vehicle Information and Cost Savings. As you stated, they were both enacted by Congress and signed by President Nixon in 1972.

That bill had an interesting dynamic, first of all because of how it got started. Secondly, how it could possibly pass, over the objections of the motor vehicle industry. First, how it got started. Well, it had a major industry behind it and an even bigger industry against it. The major industry in support of the Motor Vehicle and Cost Savings Act was a large portion, but not all, of the insurance industry.

A guy named William Haddon was president of the Insurance Institute for Highway Safety. He was a medical doctor and a graduate of MIT [Massachusetts Institute of Technology]. IIHS was funded by a lot of the insurance industry, but not all of it. State Farm was one of the leading insurance companies that wanted the Motor Vehicle Information and Cost Savings Act passed. I'm sure other companies wanted it too. It offered them a chance to save money on repairs and, ultimately, save the consumer money on premiums. There was a natural affinity of interest between the consumer and the insurance industry in this situation.

The bill really got rolling on the Senate side, with Senator Phil Hart from, of all places, the home of the automobile industry, Michigan. He was a Democrat from Michigan. Hart hired a staff member named Don Randall. Randall was the key man on Motor Vehicle Information and Cost Savings. I don't know exactly how the bill was written, but I think it probably was written by Randall as part of the Senate Antitrust and Monopoly Subcommittee staff, in conjunction with Magnuson's Commerce Committee staff.<sup>16</sup> The concepts were probably suggested by elements of the insurance industry in consultation with Randall.

Hart was chair of the Senate Antitrust and Monopoly Subcommittee staff. Then the bill was handed to Magnuson to report out of Commerce, which the powerhouse chairman did, in fact, do. I never talked to any Commerce Committee staff about Motor Vehicle Information and Cost Savings, it was always Don Randall. They basically delegated it to him. They essentially adopted a staff member from Senator Hart's subcommittee, which was a part of the Senate Judiciary Committee. {laughter} They made him a part of their family.

But it was a problem for Don Randall and the Senate sponsors because it was quite a broad bill in one particular area, where it got hammered in the House. That section provided for the establishment of federal standards to limit damage to cars in crashes, that is, federal damageability standards for automobiles.

Moss noted in one of his early hearings that the [National Traffic and] Motor Vehicle Safety Act, which Congress had passed in 1966, was beginning to show significant results in reducing deaths and injuries on the highways, through the effect of mandatory safety standards. Moss noted that the death and injury rate in automobile crashes was, by 1970, declining, or at least it

was leveling off. Of course now, in subsequent years, it has declined much more. Total deaths from motor vehicle accidents in the United States are way down—from about 50,000 people a year when LBJ [Lyndon Baines Johnson] signed the first auto safety bill in 1965, to about 30,000 a year in 2009. That is true, even though the mileage driven has gone up exponentially. The Motor Vehicle Safety Act, and its major amendment, which Moss and Magnusson pushed through in 1973, is one of the great success stories of federal regulation. It has cut the rate of death, injury, and economic loss to the American public substantially. The law could be better administered, but it is a great step forward.

In any event, Moss and Hart and Magnuson saw the beginnings of that impact and said, “Why can’t we do this for damageability of cars too?” It overlapped with safety. A car that’s less damageable was probably going to protect the occupants better as well. So, Randall drafted the bill in conjunction with the Insurance Institute for Highway Safety, and probably State Farm Insurance, and maybe some other companies. It had four titles. The first title was damageability prevention standards for the entire automobile. The sponsors noticed that when a car would get into a minor crash the whole bumper would fold, and it wouldn’t protect the car. Or the entire front end would fold, and it would cost hundreds and hundreds of dollars—these days, thousands of dollars—to fix the car. Why couldn’t the industry build a car that wouldn’t get so damaged?

So the IIHS, funded by the insurance industry, ran a series of tests where they ran Chevys and Fords and probably Toyotas into a wall. They costed out the price of repairing them. It turned out that the cost of repairing some cars was twice as much as others. That was the driving force behind that key

title, title one of the bill. The cost differential was immense, depending on what make and model car you were driving when you had an accident.

So, using that, IIHS did a lot of color films of these crashes. They showed the films to the House and Senate Commerce Committees in public hearings. They were dramatic. They demonstrated the importance of looking at the damageability of cars and the ability to make them safer, because some of the cars performed a lot better than others.

**KOWALEWSKI:** This was in hearings?

**LEMOV:** Yes.

**KOWALEWSKI:** Leading up to the bill?

**LEMOV:** Dr. Haddon testified in hearings about damageability. His testimony and crash films got a lot of press coverage. In fact, the insurance industry cared as much about damageability as safety because they stood to make a lot of money from reduced damageability. The bottom line was also involved here, as was the interest of the driver and passengers. There was a confluence of interest between consumer drivers and the insurance industry. If the insurance industry cut the cost of payouts for damageability, they could drop the premiums, sell more policies, and also there is always a lag. Here's the kicker: There's always a lag between the premium reduction and the lower payout. So, by the time the state commissions caught up with them and they started dropping the rates, there would always be a cash flow lag, and they'd probably make more money if they could reduce losses.

Anyway, Randall wrote the bill, got the insurance industry behind it. The motor vehicle manufacturers uniformly opposed it. I don't think any of them supported it except maybe the Japanese companies, who were a very small

player in those days. The bill was passed by the Senate. I do not think Magnuson had a lot of trouble getting the Motor Vehicle Information and Cost Savings Act out of committee. It came over to us, was referred to Moss, and was sitting behind the product-safety bill in Moss's subcommittee.

We thought if we can get a new agency for consumer product safety, that we could do the same thing for motor vehicle consumers in the damageability area. This was based on the economics of it, rather than safety, although Randall pointed out to me years later that economics and safety do overlap.

So, the bill had title one: standards of damageability for motor vehicles. All of the vehicle was initially covered: the rear end, the side, the roof, the bumpers. Title two would have created a system of comparative ratings for car repair costs, done in advance of the sale of that particular model-year's car. So, the consumer could look it up and say well, if I buy a Chevy, the damageability rating or amount is \$100. If I buy a Ford, it's \$72. If I buy a Toyota, it's \$200. That would make it easy for consumers to compare. The third title was maybe odometers—prohibiting of rolling back of odometers on used cars.

The fourth title was a pilot program: PMVI, Periodic Motor Vehicle Inspection. The repair industry liked that idea, but I think it was really Hart and Randall, and Magnuson and Pertschuk that started it. I mean, you can get a pretty good car, but you can run it into the ground in a few years, and what happens to it on the road? Well, you already had to go in to an inspection station because of Clean Air Act requirements. All states have some kind of an emission system testing program. Well, why not just add basic safety features to it such as brakes, lights, vision—that is, windshields and obstructions, shock absorbers, which might unbalance a car, and tires? It seemed logical. The tests could be done in five or 10 minutes at the same time they were testing the exhaust pipe.

Well, about half the states had PMVI, some of them didn't. Randall and Hart put into the bill a pilot program to expand periodic safety testing. They were going to do that in several states more to see how it worked and to try to push it, of course.

Okay, when the bill got to the House, we faced uniform opposition from the motor vehicle industry. The insurance industry was split by then. There was a lot of pressure on them to break ranks with State Farm and with the IIHS. But we started holding hearings on it, showed Haddon's color crash films. We got good press coverage.

I have to digress here and relate one more story about Randall. He came over to help us on the bill. He didn't actually work on it in the committee or anything, but he was around. He was around talking to people, working the press. He did a lot to help in the House, which was not going to be easy. Randall made himself available. It was his baby. He came over from the Senate to work with us. It's one of the rare times a Senate staffer actually came over and sat in my office and was around the committee rooms.

The second incident I would like to describe is a conversation Randall had with Phil Hart, which he told me about later. He said that Hart and he were planning the subcommittee agenda for 1972, and he pointed out that item one on his proposed agenda was the Motor Vehicle Information and Cost Savings Act. Senator Hart was reviewing it, and Hart said, "You know, Don, I come from Michigan." He said, "I represent automobile workers, and the motor vehicle companies are in my state. If I lose because of this bill, you lose." Randall said, "I know, but it's a really important bill." So Hart said, "Well, if you really think so, go ahead." Coming from Michigan, he was one brave Senator.

So, that's how it got to us. What happened in the House was tough. The big hit on the bill was that the damage prevention standards section was cut from the vehicle. That is, NHTSA would have had the authority to set standards for any part of the vehicle: roof protection for rollovers, side protection, front-end damageability. The most important part would have been side and front impact. Well, we saved bumper standards, but they were limited to five-mile-per-hour crashes for damage to the bumpers. The pressure was so great.

Stuckey was still there, we only had three votes on the subcommittee. John McCollister of Nebraska offered the gutting—the narrowing amendments—in two areas. Number one, either in full committee or subcommittee—I'm not sure which—he moved successfully to narrow the standards section to bumpers only. And in the comparative information area, which would have been almost as useful to car buyers, the Moss bill was sharply narrowed. The results of that fight were mixed. Surely bumpers are stronger now than they used to be. I have confirmed this with people in the insurance industry. Looking into the effects of this bill 30 years later, it has made some difference in consumer costs.

But the comparative information provision of title two would have been most useful. It would have required the motor vehicle manufacturers, or the government, to test the cars before they were marketed. So, in the showroom, when you went to buy your new car, you would see a comparative rating of crashworthiness by make and model. McCollister offered an amendment changing that to some kind of an index of costs in actual crashes, retrospectively. That is less useful to the person when they buy the car, because it was so delayed.

So, the bill took two big hits. It remained, basically, the bumper bill. It passed that way. I think over the years, it has had a salutary impact. An

insurance industry executive told me not more than six months ago that in setting rates each year, insurance companies now routinely consult with the manufacturers on the structure and design of the car and advise them of the losses they're paying on particular models. That's one big change.

Second, you can go on the Internet now, and NHTSA has a crashworthiness rating posted. There are public interest groups like the Center for Auto Safety, which publish damageability ratings on various cars. I think public sensitivity has been increased to try to find cars that are more stable and crash-resistant. But it was only a 50:50 victory for Moss and consumers and the Commerce Committee in '72, in contrast to the product-safety bill, which I would say came out much stronger.

**KOWALEWSKI:** What was Moss' initial reaction to the possibility of moving this bill through the House?

**LEMOV:** He supported it. Moss supported the entire bill. He was upset at the bill being narrowed. He made a public statement, actually, saying the motor vehicle manufacturers had decreed the death of this bill and they would regret it. He did not take an even partial defeat quietly. The Senate bill was not as narrow at this point. So, we had a difference between the House and the Senate. Moss said the motor vehicle manufacturers have decreed the death of this bill, and they'll live to regret it. He rallied his forces. They got it through the House Floor without further amendments, and it was agreed to in conference. So, the Motor Vehicle Information and Cost Savings Act became law.

It was signed by President Nixon. He did not veto it, but quietly signed a weakened bill. The administration would always send up weaker bills. They probably had a bill on this subject, a parallel bill. If I remember correctly, it

probably was a pure information bill—a public information bill. That’s kind of what McCollister offered in amending our bill, but it never worked effectively. The information came too late to be of any real use to the car buyer in the way the sponsors envisioned. The administration—the Nixon bill hasn’t worked—not as well as the original Moss–Hart–Magnuson bill would have.

What has worked is that the insurance industry, perhaps the manufacturers, and the public have gotten more sensitive to damageability. Insurance rates certainly now vary by the make and model car you choose to buy, if the consumer cares to search them out in advance. So, that’s the story of the Motor Vehicle Information and Cost Savings Act.

**KOWALEWSKI:** I just have one or two more questions about that. Was there an incident that really, I don’t know, gave a lot of meaning to this possible bill like there was for the consumer product bill? I guess that was many different incidents, but consumer issues are—I mean they can become a cause célèbre, essentially because these issues often are accompanied by dramatic cases in which poor, you know, children are burned and whatnot. Was there a particular issue that really spearheaded this bill at all?

**LEMOV:** Well, a couple of things. One is, again, this was not a grassroots movement by American consumers.

**KOWALEWSKI:** You had mentioned that in the first interview too.

**LEMOV:** This was the Congress acting. This was a move by an American industry, which thought it could do something good for itself and good for somebody else. It was supported by a tough Senator and a brave Congressman. It had an entrepreneurial staff in the Senate, and we did whatever we could in the House. Second, the color-film crash tests shown by Bill Haddon from IIHS,

showing the cars crashing and the cost difference, were of dramatic public impact. They got a lot of press coverage.

And third, the Japanese manufacturers did something kind of amazing. They testified before our subcommittee. I don't know if the Senate ever called Toyota. We did. So, you had the American motor vehicle manufacturers, either through a trade association or separately, and then the Japanese companies. I remember it was Toyota. The thrust of their testimony was, we have read this bill—and it had the full damageability standards provision in there at that time, it was the original bill before McCollister and Stuckey and others amended it, weakened it. Toyota said, “We think it's a good idea. We can do this.”

The big argument the manufacturers made is, “It will be extremely expensive. It won't really work very well, and it will really cost the consumer a ton of money to do the testing.” The Japanese companies said, “We have a new kind of crash resistance where the front end of the car doesn't fold all at once, and you don't get the hood thrown up in the air and smashed, and the fenders, too.” They had sort of a phased linkage of the body parts where they would sort of fold like an accordion, one into another. So, you might stop halfway, and there would be less damage to the rest of the car. It cushioned the impact, not only the bumper but the front end of the car as well. It was designed to soften the impact of the crash, thus reducing the cost and the impact on the driver and the passengers.

Toyota's testimony was absolutely dramatic. They said they could do it. The American companies were complaining “it's too hard.” This was over 30 years ago. It kind of predicted the future of the American car companies. They were stuck in the past.

That's all. This bill was not as spectacular as the burning pajamas and the football players' head injuries. But it was significant nonetheless.

**KOWALEWSKI:** So, you brought Toyota, some American companies. Who else did you decide to bring to the hearings?

**LEMOV:** Well, I'm sure we had IIHS, the Insurance Institute for Highway Safety. I'm sure the consumer groups testified in support of it. The U.S. manufacturers testified against the bill. But really, this fight was led by the insurance industry, which wanted the bill. We always made a practice of allowing everybody to testify that wanted to testify. We almost never turned anybody down.

**KOWALEWSKI:** Really?

**LEMOV:** I don't remember ever telling anybody no. I'm sure there may have been some fringe witnesses who were possibly redundant or not material to the bills, and we said, "Submit a written statement, we'll put it in the [*Congressional*] *Record*." That's possibly what we did in some cases. Mostly, Moss liked to hear from all major players—all of them, on both sides. In fact, if you did not do that, you were subject to great criticism, and you would undermine the viability of your legislation.

**KOWALEWSKI:** Certainly.

**LEMOV:** In that respect, I almost made that mistake on the Oversight Subcommittee. We could talk about that in a subsequent meeting. {laughter} But you can ruin the legislation by not hearing from everybody. You must give them all a chance and then write the bill the way the Members think it's best written.

But this was a top-down thing again. This was Congress mostly leading, not following, public desires or opinions. I think it was creative of the House and Senate to move on this bill. It could have been more effective, especially title two. I can agree that doing damageability testing on all models of cars might be very expensive. I can understand the industry's position on that. But surely, they could have come up with an index, a crashworthiness index, based on insurance data. Because they have—within a short time after a model comes out, they kind of have a good idea of what it costs to fix a car. There are accidents almost from day one. They could have had an index out. The models don't change every year. They could have complied with title two very easily, and the public would have benefited a lot. And I don't know that they ever really have.

**KOWALEWSKI:** This was the same bill that made altering the odometer a federal offense.

**LEMOV:** Yes. It is a federal offense to turn back an odometer, at least for a dealer. That remains the law. I don't know if there have been many prosecutions under it, but it is the law. You cannot turn the odometer back before sale. I think it only applies to dealers, I don't think it applies to private individuals. That's probably illegal under state laws.

**KOWALEWSKI:** All right. Well, let's end there for today.

**LEMOV:** Okay.

**KOWALEWSKI:** We made it through perhaps the two biggest pieces of legislation in 1972, and then we'll get to 1973 and then to the Investigations portion of your career. Either next time or down the road.

**LEMOV:** Yes, you could help me a bit on the Oversight part. I have some notes on Oversight, but it's hard to remember all the details. If you happen to have a

list of the Oversight reports or hearings that the subcommittee issued, it would be useful. One way look at Oversight is to look at the specific investigations and see what the actual results were. I look forward to looking back at them with you.

—MICHAEL R. LEMOV—

INTERVIEW THREE

**KOWALEWSKI:** This is Abbie Kowalewski from the Office of the Historian, U.S. House of Representatives. Today's date is October 26, 2011, and I'm here with Mike Lemov in Cannon [House Office Building], Room 143, just below the rotunda a bit, bordering Independence Avenue. Mike, thanks for being here with us today for the third installment.

**LEMOV:** You're welcome. Good morning. Nice to be here.

**KOWALEWSKI:** When we left off the last time, we were right around 1973 and the passage of the Consumer Product Safety Act and whatnot, and the next big event, so to speak, in your career was when Moss challenged Harley Staggers for the chairmanship of the Subcommittee on Oversight and Investigations. We touched on that a little bit in the last interview. You touch on it a little bit in your book too, which is great, *The People's Warrior*. I was hoping we could start by talking a little bit about that challenge.

**LEMOV:** That would be fine. That challenge was a major event in Moss's career. But you have to put it in context. The event was Moss' challenge to be the chairman of the Oversight and Investigations Subcommittee of the House Interstate and Foreign Commerce Committee. Traditionally, the chairman of the full committee, in this case Harley Staggers of West Virginia, was always elected chairman of that subcommittee by the Democratic Caucus of the full committee. The Oversight Subcommittee had a large staff. Congressman John Dingell once told me that Staggers, the full-committee chair, just wasn't doing anything with it, and that he and other Members thought Moss would make better use of its resources. That was one reason behind the Moss challenge, and I think Mr. Dingell was accurately reflecting the history.

But you also have to go back a couple of years before, when Dingell, Moss, and Paul Rogers of Florida sent Staggers several letters asking him, most politely, for adequate staffing for their subcommittees. You know, I'm sure, that Rogers was a very eminent and effective chair of the Subcommittee on Health and Environment of the Commerce Committee. Dingell ultimately became chairman of the Energy Subcommittee, and Moss had, at least at first, the least popular subcommittee, Commerce and Finance. But none of them initially had any subcommittee staff under the structure that Staggers instituted when he became chairman. I think he took over from Oren Harris a few years before this confrontation took place.

**KOWALEWSKI:** Of Staggers?

**LEMOV:** Staggers, yes. He served after Oren Harris. Staggers was determined to follow that tradition, and that meant all staff worked for the full-committee chairman. He assigned them to the subcommittee chairs and took them back as he determined. The full-committee chairman decided which staff would handle which legislation. Thus he, in a sense, was maintaining control over legislation, even at the subcommittee level.

So Moss, Rogers, and Dingell explained at some length why the growing workload of the subcommittees was the reason for their polite request. They asked Staggers for adequate staff to do the job they believed they had been elected to do. He turned them down. Staggers told the three subcommittee chairs in writing that it was "almost a moral law" that the chairman controlled all staff, and most other functions of the committee as well.

Now Moss had a big agenda, including securities, consumer protection, toxic substances, and other legislation. He didn't think he could handle it with loaned and inadequate staff. The full committee at that time had four

professional staff members—four professional staff members for the entire Commerce Committee, with jurisdiction over all aspects of domestic and foreign commerce. Those four staff members handled all full-committee and subcommittee legislative, and some oversight, matters.

So, this effort to unseat Staggers came a couple of years later. The polite letters were written to him in about 1969 or 1970. The turndown followed immediately. The challenge to Staggers occurred in 1974, when the committee organized for the 94th Congress [1975–1977]. It wasn't a personal thing. I don't think Moss disliked Harley Staggers. I think he saw him as a kindly white-haired older gentleman who was in way over his head. But Moss needed staff to handle both a big backlog of legislation and oversight of the many laws the committee had passed in several previous Congresses. The only place he could find it was Staggers' staff. So he decided to take it, if he could.

**KOWALEWSKI:** What was the effect of that challenge on the rest of the committee, do you remember?

**LEMOV:** Well, first of all, Moss won. That had a major effect on the Commerce Committee, and perhaps on other committees of the House of Representatives as well. What happened was, Moss defeated Staggers by one vote after repeated ballots in the caucus of the Democrats of the full Commerce Committee. He defeated the full-committee chairman and shattered the tradition of his always being the chairman of the staff-heavy Oversight Subcommittee.

Right about the same time, the committee, supported by the subcommittee chairmen, passed a resolution of the committee which provided that all legislation would automatically be referred to the subcommittee of

jurisdiction. That is, the chair would not have control over referring bills to the subcommittees, scheduling hearings and markups, and handling the bills on the floor and in conference. Through the House Administration Committee, they got separate budgets, separate line items in the House budget, so that each subcommittee had its own budget, and the money was not controlled financially by Chairman Staggers, either. I think they did that through their good relationship with Frank Thompson, the chair of the [House] Administration Committee, who was a friend of Moss'.

So, we had referral of bills. We had the financial control in the subcommittee chairs. The subcommittees had more staff, and Moss had the Oversight Subcommittee. Staggers had previously, somewhat reluctantly, authorized one staff person for each subcommittee. So, there was a huge impact on the full Commerce Committee. It's not clear to me the exact timing of these things, but they all were part of the same effort of the subcommittees to get more capability and the ability to do more. This was not a personal power struggle, although over time things did get a bit testy. But it wasn't really a personal thing.

They had so much legislation backed up. They had a huge executive branch feeding them information, which you will see from the activity reports of the House Commerce Committee they felt was often incorrect or skewed. There are plenty of examples in the activity reports of Moss challenging the accuracy of information given to him by executive agencies. All the subcommittee chairs felt they needed a larger, trained staff in order to be able to do an effective job of legislating and oversight. It took a while, but ultimately they got it with the help of the Watergate freshmen Members.

Now, the question of what happened with other committees of the House is less clear to me. I believe that there was some reaction in other committees.

For instance, I think the House Education and Labor Committee, either just before or just after the “revolution” on House Commerce, did something similar in terms of their committee rules and the power of subcommittee chairs.

The money resolution which gave Commerce subcommittees their own budgets didn't last formally for more than a few years, but its effect was to permanently give them adequate travel, printing, and witness money and more money for staff in the future. So, it was in effect a shot across the bow of all full-committee chairs by Commerce and the House Administration Committee. I am sure it had an effect on other committees of the House of Representatives.

**KOWALEWSKI:** So, for you, coming from the Finance Subcommittee to the Investigations Subcommittee, that's kind of a drastic change, I would imagine, in your role as counsel, going from one in which legislation is kind of first and foremost to oversight being first and foremost. I was hoping that you could summarize—give a brief description of what congressional oversight was like in the middle of the 1970s. This is right after Watergate. This is right after a lot of full-committee chairmen are losing their influence.

**LEMOV:** Oversight up to that time—the time Moss took over O and I [Oversight and Investigations]—was, with some major exceptions, really a hit-or-miss thing, based on targets of opportunity. The legislative subcommittees did some oversight. The oversight subcommittees—and each full committee, I believe, had an oversight subcommittee—did some oversight. Then you had the Government Operations Committee, which had more oversight responsibility. But it was really a question of what came across their bow on any particular day or week or month. It wasn't done in a coherent way, and it was not done very much. Maybe it still isn't.

Oversight is thankless. It's very difficult. Oversight gets the Congress into the details of how its laws operate. The devil is in the details. It's very difficult to analyze and review and sometimes challenge the actions and opinions of executive branch experts, of which there were and are very many. They had the power. They had the data. They had the continuous experience in an area of commerce. It is almost as if you had created—Congress had created—a Frankenstein monster, perhaps a necessary monster, but a large one, nonetheless.

Article I of the Constitution says “All legislative powers herein granted shall be vested in a Congress.” Every executive and independent agency is created by Congress. Its actions are based entirely on statutes enacted by the Congress. Yet they grew so big, and they remain so big, perhaps of necessity, that it's very difficult to keep track of what they're doing and whether they are effectively carrying out the laws. That is especially true when the Congress is of one political party, and the executive agencies are led by the other party. So, oversight isn't popular. It can be dull and boring. But it is necessary.

Moss tried to change that boring nature of oversight, and to some extent he succeeded. We had a field day with the press. Now, I saw an article you gave me where some reporter for the *L.A. Times* suggested that Moss gave out testimony in advance or leaked advance copies to attract press to the Oversight and Investigations Subcommittee. It wasn't necessary. After the first few hearings on oil and gas withholding or on unnecessary surgery by doctors or on toxic substances in the environment, we didn't have to give out any advance copies. The press just knew Moss was almost always taking on a major issue.

In fact, Moss didn't like giving out any overnight lead because that would keep other reporters away. We would usually have the press table filled

because they knew that this Oversight Subcommittee meant business and was going to do significant things. We usually managed to get a lot of coverage because Moss pushed us to do such things. There was perhaps a little bit of jealousy among other Members, and admiration about the Oversight hearings and reports. Moss was allegedly, off the record, called—maybe in jest—some names by a few of his colleagues. But most of them respected him a lot for his work ethic and his principles. I know the public, who benefited from his disclosures, felt strongly about him and supported Moss and his goals.

To digress for a minute, I want to put in context Moss's Oversight career. Remember, Moss served four years in the California legislature and then 26 years in the United States Congress. That is 15 elections. He never lost one. In the beginning, he came very close. He was almost defeated in his first run for the California legislature. He squeaked through by a few hundred votes. He went to bed a loser, he told me, in his first race for Congress, and he only pulled it out based on the votes of some poor districts and some farmworkers who nobody had ever gone out to talk to before. He won that first race for Congress by four-tenths of one percent of the vote. He never was completely unconcerned about the opposition, but the voters of his district somehow understood that he was working for them.

There was a bond between the voters of Northern California—mostly Sacramento, but also rural counties around it—there was a bond between Moss and the voters of the Third Congressional District. They would return him to office sometimes despite some of his votes which they might not have completely agreed with. So, in context, and getting back to what I was saying, out of 26 years of congressional service by Moss, only four of his years in the House of Representatives were spent as chairman of the Oversight and

Investigations Subcommittee. You could say it was a coda, an exclamation point to his career. He did a lot of work on Oversight and compiled an extensive record. He did it in the last four years before he retired. But much of his career involved enacting important legislation.

**KOWALEWSKI:** You bring up an interesting point about his relationship with the district, because when he retired, or decided not to run for re-election, there was an article written in the *L.A. Times* that said the amount of money spent by one Democratic candidate in the primary would probably total more than Moss had spent on his six previous elections combined. Do you think that that relationship that he had with the district—kind of this trust, perhaps, or even just coming from a safe district—how do you think that influenced the way he went about his job?

**LEMOV:** No question that the district became safe. But he was always concerned. He never could really rest easy. He calmed the business community of Sacramento, which opposed him at first, by delivering all kinds of federal assistance for things like the Folsom Dam, which saved the city of Sacramento about three years after he got it completed. He delivered money for Mather Air Force Base, and there were a lot of federal projects there. He played a major role in the construction of the Port of Sacramento so freighters could come in from San Francisco Bay, all the way up the Sacramento River right to Sacramento. That was a big economic shot in the arm.

So in later years, the business community was quite happy with John Moss. Yet he never rested easy because he was so progressive and so out-front that there just were a lot of people that wanted to see him defeated. He was a target for a lot of people and some big money. There was always the chance that someone would mount a well-financed and dangerous campaign against him.

For example, I wanted him to take up handgun control. We would discuss with the staff and with Moss what the major issues were for the subcommittee. It just happened that handgun control was one of my personal concerns—that there should be some more controls on the use of handguns. Moss declined to do an investigation on that. He said, “That’s really a Judiciary Committee matter, and I don’t want to step on their toes.” He also said, “Mike, you know there are these one-issue voters. If I take up that issue I’m going to bring 10 or 20 percent more voters out against me just on handguns.” So that is one he took a pass on. Moss wasn’t perfect, but he certainly was a principled, effective, and hardworking Congressman. I just wanted to put it in context, his four years of oversight following 22 years of legislative work.

**KOWALEWSKI:** What about your own relationship with Moss? You talk about the committee’s relationship, the district’s relationship, but when he took over Investigations, what about your dynamic? Because you guys had worked pretty closely together for the last six years or so.

**LEMOV:** Correct. I was his counsel for all the Commerce and Finance years. When Harley finally gave each subcommittee chair a counsel, I was appointed Moss’s counsel. So I worked closely with him for six years—three Congresses,—and I had a very good relationship with him. We thought the same way. I could anticipate what Moss was going to do on a given issue. He sometimes changed things around, or he’d say “Let’s not do that, let’s do it this way,” but basically I was usually pretty close to anticipating what the chairman wanted. The first few times when I wrote letters for him, or memoranda, he’d make a couple of changes on them, but after that he never changed much. I mean, he pretty much knew I had gotten to think, or always had thought, the way he thought.

That's what a staff member really has to do. The key to being a good staff member is understanding what your Member of Congress wants to do and what he *can* do practically. Luckily, the second one for Moss—what he could do practically—was pretty wide open, especially in the later years. Certainly in the Oversight years, Moss had a hunting license. But I kind of figured out what he wanted. Not only that, I really liked him. And I guess he liked me.

But you know, I had to ask him for the job. That was after six years of pounding out legislation. I'll just summarize again those six years. Moss was without a majority of his own subcommittee much of that time because one of the Democrats was not voting with him on major bills, so he really had a minority of his own subcommittee.

**KOWALEWSKI:** Was that Bill Stuckey?

**LEMOV:** That was Bill Stuckey.

**KOWALEWSKI:** Because he joined him on Investigations, too, in that next Congress.

**LEMOV:** He wouldn't go away. But on Investigations, he seemed to enjoy it more. And we did not need his vote to commence an investigation, and we had a bigger majority anyway.

**KOWALEWSKI:** All right, we'll talk about that.

**LEMOV:** Anyway, on legislation, Stuckey was probably hearing from the business community or the government agencies that Moss was after, and he was willing to—not always, but most of the time—vote against Moss. So without a majority, Moss nonetheless pushed through the Consumer Product Safety Act, which had been essentially deadlocked in the House. Remember, I told you in one of our previous interviews, Magnuson's staff thought that the

House was the graveyard of consumer legislation, at least until Moss took over this subcommittee.

So we had the Consumer Product Safety Act. We had the Magnuson–Moss Act, which is the Federal Trade Commission Improvements Act—a huge rejuvenation of the Federal Trade Commission. We had the Motor Vehicle Safety Amendments of 1974, which gave teeth to the recall authority and the civil penalty authority of the Secretary of Transportation. We had the Motor Vehicle Information and Cost Savings Act, which is known as the bumper bill, an effort to improve the damageability of cars sold in commerce in the United States, and also to give consumers information on which cars cost more when they have a collision—that is, which are going to cost them more in insurance premiums every year. That information is available today through the Department of Transportation, and every dealer showroom has a copy of that cost comparison. Moss almost singlehandedly pushed through the House the investor-protection provisions found in the Securities Investor Protection Act—SIPA—and the Securities Amendments of 1975. So, Moss pushed those six major bills through the House. Previously he had authored and gained enactment, of course, of the Freedom of Information Act in 1966.

So he was busy, and he had a very productive 22 years. Then, for some reason or other, he decided to change course. Frankly, it surprised me that he made the switch. He still had the Toxic Substances Control Act and no-fault automobile insurance on his plate and several other major bills he could have worked on. Then we could have tried to expand our legislative jurisdiction to get into things like international standards and maybe food safety, if we could have gotten an agreement with Paul Rogers or done joint hearings. But Moss

just suddenly decided he was going after Staggers' subcommittee, and there were other things he wanted to do.

I think it had a lot to do with the mood of the country, which was getting tired of the federal government and regulation, and swinging to belief in a smaller government and less regulation. Moss took Oversight, I think, to try to combat President [Gerald Rudolph] Ford [Jr.]'s effort to promote deregulation. In the course of those Oversight hearings, he forced change in a lot of programs, he caused a lot of industries to modify what they were doing, and most of those things are the law today or the practice today.

To digress for a moment, when he gained Oversight, I nonetheless had to ask Moss for the job of chief counsel, even after six years of working together and getting a lot of success. He seemed pleased, but he didn't call me. After he won the election over Staggers, which I worked on for him, I had to ask. The staff worked pretty hard to get Moss elected over Staggers as chairman of Oversight. We worked the Democratic Caucus. We talked to the Members. A couple of Members fooled us. They said things we thought meant that they were going to vote for Moss, but they went for Staggers. There's this famous story. Did I tell you the story about John Dingell and Brock Adams?

**KOWALEWSKI:** I believe you hinted on it, yes.

**LEMOV:** Well, the vote was tied 13 to 13 after several ballots, and we couldn't figure out why. Our count showed we should be winning by several votes, but we were not. Apparently, John Dingell was sitting next to Adams and noticed that he was marking his ballot for Staggers, even though Brock Adams was a progressive from Washington and a Magnuson protégé. He had pledged to vote for Moss, we thought. We don't know why to this day. But, in any

event, Dingell leaned over and said something very forceful, and perhaps profane, and Adams changed his vote, and Moss won.

Dingell and Moss were always allies and buddies. Some people can't understand it because John Dingell was very protective of the motor vehicle industry, and Moss was out to regulate the safety of motor vehicles—safety and repair cost. But yet, their relationship overcame that huge difference in policy. It is an interesting footnote to the history of the Commerce Committee.

So, this four years of Oversight came at a time when oversight generally was based mostly on targets of opportunity—potluck, not organized. Moss changed that with the Commerce Committee. He changed modern oversight and the output. I doubt whether there has ever been an oversight subcommittee which held 71 days of hearings in one Congress, issued over 20 reports based on those hearings—not just hearings to get a headline, but detailed reports recommending specific changes. 71 days of hearings.

In the next Congress, the 95th Congress [1977–1979]—I was only there for one of those years because I left to go into private law practice—but they did even more. I don't understand how they could do more, but the subcommittee had 112 days of hearings, published 30 sets of hearing transcripts, published 13 reports, and as of the date of this Commerce Committee activity report, had 11 reports still in progress. That would have been, if they finished all of them, another 24 reports. Many of those Oversight investigations and reports had a significant impact on the country.

But, to get back to the process. We didn't go about this in a haphazard way. I had the idea of an agenda. We developed an agenda. I did it for a lot of reasons, I'll get to that in a minute. But for instance, here are some of the

subjects as I read through these activity reports of the two Congresses that Moss chaired the Oversight and Investigations Committee. I made some notes in the margin about how Moss used Oversight and what he did, which I think were somewhat precedent-setting.

He reinvented Oversight. For instance, he had the major energy companies before him on the question of whether they told the truth regarding why they weren't shipping gas to the interstate market in the winter of 1976. Because he thought they lied to the subcommittee, he referred two of those companies to the Justice Department for criminal prosecution. That's quite unusual. It has happened, but it's unusual.

Moss challenged the gas-reserve estimates of the American Gas Association, which were used by the government to set the price of regulated natural gas. He had the General Accounting Office [GAO] check their numbers and GAO found that they were off by 34 percent. That is, by using a lower gas-reserve amount, the price was set higher by the Federal Power Commission, because the lower the reserve number, the higher the price. So, Moss got the U.S. Geological Survey [USGS] involved. Even though it reported to the executive—to the President—USGS worked with Moss' Oversight staff and for him. He broadened his strength as an Oversight chairman by using the USGS and other federal agencies, such as the General Accounting Office and the Library of Congress American law division.

So Moss thought that gas reserves were being underreported by the industry. I think Moss was right. If you consider it now, 40 years later, does anyone ever talk about running out of natural gas in any particular winter? I mean, we have a long-term issue about where we're going to get our fossil fuels in the future, but we're not running out of gas for pipelines and for heating homes. Why did the industry withhold supplies? They had a motive. The

motive was, they wanted deregulation of the price. At the time, all natural gas either in the United States or offshore was regulated as to price. The companies wanted to kill regulation. If they showed there was a shortage, they might justify getting rid of price regulation.

Moss challenged that. He had facts, and he got headlines. I'll never forget, he had the presidents of all seven major oil companies—in those days there were seven of them. Now they've merged, and there are only three or four. But there were seven then, the big seven: Exxon, Mobil, Texaco, Conoco, Shell, Gulf, Chevron. BP may have been there too. These were very dignified and powerful gentlemen.

That morning I was sitting next to Moss because I staffed those hearings myself, with a lot of backup from our experts. They were all sitting at this long table in the Commerce Committee's gorgeous wood-paneled hearing room in the Rayburn building. The press table was packed, and there were television cameras that day, and there were reporters sitting on the floor between where we were, up on the dais, and the witness table. There were many reporters and photographers with cameras. Now, Moss did not tell me what he planned to do. We had given Moss a big black loose-leaf book the night before, with the issues and statistics and suggested questions. He didn't always use our questions, but he read the books, and then he often asked his own questions. He had amazing memory and stamina.

So the first thing he did, was to say, "Gentlemen, good morning." "Good morning, Mr. Moss." "Good morning, gentlemen. Would you all please rise." They didn't know what he was doing, but they all rose. We had the seven presidents of the major oil companies standing in front of us. He said, "Please raise your right hands, gentlemen. Do you swear to tell the truth before this subcommittee?" I remember some of their mouths seemed to

drop, their jaws seemed to drop. They were stunned to be sworn to tell the truth before a committee of the Congress. Those hearings got a lot of attention. That picture with the hands in the air went all over the country. I think Moss had a reason. He wanted to remind people that Congress was the lawmaker under the Constitution. Even these powerful corporations and their leaders reported to the Congress and, ultimately, to the people. He was not doing it for headlines.

Moss also thought that natural gas and oil were an oligopoly, surely, or a monopoly, possibly, and that the price was administered and it was too high. He thought the price at the pump for gasoline and the price of natural gas to heat people's homes was, if not rigged, at least administered. He wanted federal price controls to protect the consumer. That was one of his battles. That's one example. It probably led to the creation of the Energy Information Administration, part of the Department of Energy.

Anyway, the real impact of this investigation of natural gas was felt later. When Congress debated the deregulation of natural gas in that or the next Congress, Moss' reports on inaccurate industry reserve-data, on withholding of natural gas, on manipulation of the price, were used on the floor of the House to defeat deregulation. It was a big victory for Moss and his allies.

There was a Select Committee on Energy that year, which Moss was kept off by the leadership. He was very angry about that. Tip O'Neill was the Speaker then. They did not name Moss to the Select Energy Committee. Lud Ashley was the chairman, a Democrat from Ohio. But the result on the House Floor was something completely different than those pushing for deregulation would have wanted. Congress split the difference. Old natural gas, which was everything discovered up to the date that bill was introduced, remained regulated as long as those reserves continued to exist. So the price to the

consumer stayed lower. New gas, discovered in the future, was freed from regulation. There is, I believe, still some old gas out there, so it is probably still having an effect on the price to the consumer.

If I was doing oversight today, I surely would investigate what the industry defines as “old gas” and what they’re calling “new gas.” But the money that Moss’ oversight work saved the American consumer over the next 40 years is surely in the billions of dollars. Old gas remained under regulation, partly because of Moss’ oversight hearings.

Here is another example of tremendous impact of those Oversight hearings. It relates to something called the Gulf Warranty contract. The Federal Power Commission—which was dissolved and merged into the Department of Energy because of Moss’ exposure of its inefficiency and perhaps collusion—had regulatory jurisdiction over contracts between Gulf and Texas Eastern and other pipelines. Texas Eastern delivered natural gas to major cities on the East Coast, like Philadelphia and New York.

The contract, approved by the FPC, required that Gulf deliver a certain amount of natural gas every year at predetermined prices. As the price rose, Gulf stopped meeting that delivery requirement. The FPC closed its eyes. The result was, of course, that the price to cities like Philadelphia, New York, and Boston went through the roof, or the gas simply was not made available. So, Moss hauled the chairman of the Federal Power Commission up before his subcommittee and demanded to know why they weren’t enforcing Gulf’s requirement to live up to its agreed delivery requirements. The Federal Power Commission, within weeks reversed its position and directed Gulf to comply with the contract. The gas supply at contracted prices sharply increased.

That is an example of good oversight. Here is one other example of how oversight can be effective: second consultations before surgery. Our subcommittee's health expert was Elliot Segal, who I hired to be head of our health task force. We had three sub-subcommittee task forces on Oversight. We divided our staff up into three groups. Elliot Segal had been an assistant dean at Yale and was a specialist in health-insurance and health-care issues. I hired him at the suggestion of Senator Magnuson's staff, where he had had an internship. Elliot also had an unbelievable pipeline into the Department of Health, Education and Welfare. We had whistle-blowers in almost every agency that the Oversight Subcommittee had jurisdiction over.

We learned that there was a lot of surgery—in particular, kinds of surgery like tonsillectomies or appendectomies, and other kinds of surgery—which physicians would just order somewhat defensively, without thinking about whether it was really necessary. It was a cash cow for doctors and the health-care industry. There are many other examples of unnecessary treatment. The subcommittee was impressed with a recommendation from one of the universities that there be second opinions before surgery. But Medicare would not pay for second consultations, and private insurance companies would not pay for them.

Well, if you look at your health insurance policy now, second consultations before surgery are generally covered. And in fact, I looked at my Medicare policy yesterday because I knew I was going to talk to you about this, and it provided, in fact, for—second and third consultations before surgery are covered by insurance. I don't know why you'd want to talk to three doctors, because then you'd probably be totally confused, but the availability of second consultations prevents many unnecessary operations, because of Moss'

Oversight work. I could go on and on, but I think one can see the point of good oversight by Congress.

I do want to mention something more about the varied techniques of Oversight. Moss used subpoenas when he had to and, as you mentioned, there were lawsuits he brought, with the support of the House of Representatives, to enforce them when they weren't complied with. He used other agencies we mentioned, like the USGS, the U.S. Geological Survey. He relied a lot on the Library of Congress American law, government and history divisions to help staff research reports and give us a history of various similar events.

For example, in one of Moss' major reports we wrote on federal regulation and regulatory reform, the subcommittee starts off with a history of previous reports on the same subject, such as the Hoover and Ash commissions. It demonstrated that Congress wasn't doing oversight on a whim. There was a long history of previous executive and legislative efforts to look at the role and functioning of regulatory agencies. Moss used survey questionnaires to business and government. He held joint hearings with Senate committees. I think that was the first time that was done up to that point. The Senate Commerce Committee and the House Commerce Committee had a joint hearing. Moss had joint hearings with other committees of the House, too. He used a lot of different techniques to further the impact of the Oversight Subcommittee and its goals. And what were its goals?

Oh, by the way, Moss did say I could be the chief counsel after I called him. He didn't make it easy for me. I think the conversation went something like this: I was sitting in my windowless office in the basement of the Rayburn building, and he was, I suppose, upstairs, where I reached him on the phone. I said, "Mr. Moss, who's going to be"—I sort of tried to be a little bit

subtle—“who’s going to be the chief counsel of this new Oversight Subcommittee you now are chairing?” He said, “Well, are you interested?” I had made this telephone call, so you bet I was interested. I said, “I would be interested, Mr. Chairman.” He said, “Let’s think about it, and come talk to me tomorrow.” So he made me come ask for it, and I asked for it, and I got it.

Anyway, back to Oversight procedures. We had such broad jurisdiction that within a short time, it became obvious we had to have some kind of agenda, in a way, to protect ourselves from random requests by outsiders, or even Members. So we developed an agenda for the chair’s approval. In the 94th Congress, our agenda was basically in three major areas.

First, energy. That is, looking into the price and supply of natural gas and oil to the public because as you remember, that was the era of the Arab oil boycott, and there were lines at gasoline stations, and Congressmen were saying to Moss that blood will flow in the streets if we don’t get more oil and gas to our people. It never happened. The American public did not rebel over gasoline prices or home heating prices. They seem to have accepted almost \$4.00 a gallon for gasoline now. In those days, it was probably \$1.50. People said if the price went over \$1.00 a gallon, blood would flow in the streets. We are not a revolutionary people these days. In any event, there was energy and the energy task force that was headed by John Galloway. We had a very good person handling that. He had five or six investigators and lawyers working with him.

Number two, we had Lowell Dodge heading up a task force on the regulatory agencies. It was my idea to rate them—to get more attention to a rather dry analysis of the nine regulatory agencies we had authority over. We would rate them and see who the best was and who the worst was, and why. Then we’d

come up with recommendations on improving each agency. I really liked that study. It was 750 pages long, based on 3,500 pages of testimony before the subcommittee.

Then we had our health task force headed by Elliot Segal. So Lowell Dodge, Elliot Segal and John Galloway were our team leaders. That is how we could have so many investigations, hearings, and reports in each Congress. These three task forces were functioning simultaneously, and one would be ready for a hearing as soon as another one was finished. Why? Why did we pick these subjects? First of all, I tentatively picked them and went to Moss and got his approval. He may have changed some things around, but basically not much. I pretty much knew what he wanted by then.

A small digression. It takes a strong chairman to delegate. He has to have confidence that he has picked the right people—and confidence in yourself—that they won't get you into trouble, and that you will defend them if they do, if possible. Moss had all of that. So, I talked to the rest of the staff, and we went to him with this agenda. Why energy? Because, well, it was a huge, growing cost to the American consumer, and we felt that it needed to be investigated and regulated to be reasonable. It turns out, I think we got some results. Not everything we wanted, but something.

On health care, Moss favored national health insurance. I knew that. He had supported a California health-insurance plan when he ran for state assembly in 1948 sponsored by Republican Governor Earl Warren. Warren had proposed a California universal health-care law. Moss and Warren were allies on that and many other things. Moss wanted it for all Americans. So here we were—this was 1976—and Moss was still trying. It finally passed in 2009—'09 or '10. So, about 40 years before, Moss was pushing for national health insurance. That's why we had a health task force which had hearings on cost,

effectiveness, and children's health-coverage issues, all in an effort to generate public support for national health insurance and to force better private health insurance.

Finally, we had this huge subject on the functioning of the federal regulatory commissions. It may be one of the most comprehensive reports ever put out by a congressional subcommittee. The title is "Federal Regulation and Regulatory Reform," and it is 750 pages long, based on months of hearings. We held, I think, between 20 and 30 days of hearings on that issue, just as a matter of history and to get more public attention. We rated the nine agencies. Moss wanted to show that if they did their job well, they could save the public from injury and economic loss.

We rated the Securities and Exchange Commission the best-functioning regulatory agency, and the newly rejuvenated Federal Trade Commission second, although we said there were some problems with its lack of aggressive enforcement of its mandate. We rated the Interstate Commerce Commission, which is gone now, and the Federal Power Commission, which has now been merged into the Department of Energy, as the weakest of the agencies. We did it for a reason: to defeat deregulation.

So we did have an agenda, and it was because of policy goals that we had an agenda. It was also a defensive effort on the part of staff to fend off unwanted "targets" that Members or outsiders might throw at us or members of the subcommittee along the way.

**KOWALEWSKI:** Question for you: Given that Dingell and Rogers kind of specialized in energy and health respectively, and that they were two of Moss' more or less progressive associates on the committee, did that have an influence at all? Do you think that Moss would have thought, well, perhaps since I have these

two other subcommittee chairmen who have similar agendas, that perhaps I should go after these if I want to make the biggest impact?

**LEMOV:**

Actually, it was the other way around. First of all, it didn't have that much effect because there was so much to do in those areas. I mean, Dingell was concentrating on energy legislation. There was the Emergency Petroleum Allocation Act, which passed about that time, relating to the price of gasoline at the pump and relating to supplies of crude oil, which Dingell was working on. There was the Energy Conservation and Cost Savings Act, which related to energy data and other current issues and the organization and reorganization of the energy departments of the government. So Dingell had a lot of legislation. Thus, Moss' investigations generally supplemented what Dingell was doing. To the extent Moss was blowing the whistle on ineffective regulation or ineffective functioning by the Federal Power Commission or the Federal Energy Administration, he was helping John Dingell push his legislation through.

Then, in the health area, Paul Rogers was working on things like the Medical Device Act, which subjected medical devices to Food and Drug Administration premarket review, and was patterned on the Consumer Product Safety Act [CPSA], in general. Rogers was working on many other things, like utilization review—having one hospital in each region do a particular complex and costly procedure rather than having all of them do all things. All this was and is important because federal tax dollars are paying for a lot of this, either through Medicare, Medicaid, or direct grants for health research. Rogers was really busy, and Moss and Rogers worked well together and avoided conflicts.

By the way, I never saw Moss have anything but good relations with everybody but Staggers. I mean, he got along very well with Rogers, and

Dingell was his best buddy. Once in a while the Energy staff—Dingell’s staff—got a little bit out of joint if our investigations seemed to step on something they were doing. So, we would always give them the lead. We would try to give the legislative subcommittee the chance to do whatever they wanted first, and then if they didn’t have the time or the staff, we would jump in and do oversight. We tried to avoid overlap. I would say 99 percent of the time we avoided conflict with other subcommittees.

As far as other committees of the House, I never heard of any situation where another committee said, “Oh, you’re trampling on our jurisdiction” or “You shouldn’t do that investigation.” That may also suggest that oversight was overlooked at that time, that there wasn’t enough of it. So, we did an awful lot of work. You might think a lot of Members would have been concerned about jurisdiction, but we just didn’t get that.

**KOWALEWSKI:** What about his relationship with James Collins, the Ranking Member on his subcommittee?

**LEMOV:** That is interesting. Now, James Collins was a nice gentleman from Texas. I think he was kind of like Staggers in the sense that he was a bit overwhelmed by Moss. Moss’ drive and his stamina and his willingness to take on dangerous opponents just kind of shocked Collins, who didn’t have the votes to block any of Moss’ investigations anyway. He filed dissenting or concurring views on some of our reports, but that’s about all he could do. They got along well personally, I thought. I never saw them angry at each other. I’m surprised, I didn’t know about the incident where Collins allegedly went on the floor and accused Moss of dictatorial tactics. He must have been angry about some particular hearing about the oil or gas industry, since he was from Texas. Collins must have been feeling all kinds of pressure to somehow slow Moss. But they got along personally pretty well.

Here's a little anecdote. When I left the Hill and went into private law practice, I got a call from Collins' counsel, Bernie Wunder. He said, "Mr. Collins wants to refer a client to you." Now, I was just starting out my law practice, so this was a welcome, but somewhat surprising, call. The client was Husky Oil Company. It wasn't Exxon, but it was an oil company, and they had money, so I was pleased. I didn't get the client. I talked to them, but it did not work out. But Jim Collins tried to send me an oil company. Maybe he thought he would shut me up.

**KOWALEWSKI:** What was your relationship like with the minority staff?

**LEMOV:** Excellent. The staffs got along wonderfully. You know, we didn't do much together. I mean, we would prepare our hearings. We didn't let them know what we were going to do much in advance, so they did have to react to the subjects and witnesses, who were often a surprise, pretty quickly. They had to feed their members questions and information.

But they had a big advantage. They had the industries and their lawyers and experts. So, if we were investigating the energy industry or the medical industry, they'd usually have somebody from the AMA [American Medical Association] or the American Gas Association or the [American] Petroleum Institute sitting in a side room somewhere, giving them ideas about how to respond. Moss would, of course, publicly notice his hearings, and I guess they were in the day book in the press gallery and probably in the *Congressional Record* a day or two in advance, maybe even a week in advance. My recollection is that we put a brief notice in as to what the subject of the hearing was, maybe even a list of the witnesses. But as to the exact thrust of the testimony, what we had in our files they had to guess. We did not share much with them, so that might have caused a little pique.

But Tom Greene, who was one of the main Republican counsels, and Bernie Wunder and Nancy Nord, who's now on the Consumer Product Safety Commission, all got along pretty well with us. We had a friendly, professional relationship. I still have lunch with Nancy every once in a while. We don't agree on politics, but she was a nice young woman and is a nice person now.

So the answer is, the staffs functioned very professionally. If the minority had a question, we would answer it. I mean, we would have to answer a direct question. If they said, "Well, what's this report that you're going to use say?" we might give them a copy. But as far as witnesses, the substance was often a surprise, even to us.

I tried to follow the format that I learned at the National Commission on Product Safety. It was: Get people's attention right away. We usually tried to start off a hearing with a bang. Then we would lay out the problem. Send out a victim, send out a small-business person or a consumer or an academic, and then bring on the government and the industry to answer them. We, of course, tried to get the whole story out, pro and con, before the newspapers went to press at about two or three in the afternoon. It was hard. Many of Moss' hearings went on much longer. But the key to it was always at the beginning.

**KOWALEWSKI:** I was going to ask—that's actually one of my questions to you—if your time on the NCPS had any influence on the way you approached investigations, because it was very similar, in some respects, to what you had been doing in the late '60s with the investigations.

**LEMOV:** Yes, it did. I think it did influence me in various ways. If a tree falls in the forest, and nobody hears it, you know, did it really fall? What's the purpose

of congressional oversight? We wanted the public to know what we were doing to understand the issues, to see the problems, to help us make it right. I still think we were right in the way we analyzed the energy industry and regulatory reform issues and health care. I think Moss was right on target in all of them, 30 years before his time. Many of those things we highlighted or recommended have since been adopted by the Congress and the industries involved and the nation. But many still remain unresolved.

**KOWALEWSKI:** Earlier, you said you handled a lot of the gas hearings. I was hoping that you could give us kind of a narrative, a general summary, of what an average day would have been like for you as chief counsel preparing for one of these hearings, from the selecting of an idea to holding the hearings.

**LEMOV:** Right. The general idea was in our agenda. By the way, the subcommittee agenda which had been approved by the chairman at the beginning of these two Congresses was partly defensive. One reason was because we had policy goals we wanted to achieve. It wasn't just to throw dynamite—like one unnamed person said in a news article you sent me—that we'll keep throwing some dynamite. I believe I know who that person was, and he was a continual thorn in our side, because we weren't interested in throwing bombs. We were interested in achieving things like national health insurance, like lower prices for gasoline and heating oil for consumers, like regulatory agencies that protected the public, not the industries that they were supposed to be regulating. So, we had goals, and we were not just throwing dynamite.

In any event, the agenda was the general outline of the hearings, but then you would have to get up a witness list. So, one of the staff would get on the telephone or talk to the agency or call the universities and begin lining up a witness list, which we would show to the boss. Then we'd have to prepare an opening statement for the chairman, which was very important. Because

unlike many congressional hearings I have listened to, in the opening statement, we tried to be substantive. We didn't just say "Good morning everybody, nice to have you here. We're having a hearing today on the price of natural gas to heat homes this winter and why the Federal Power Commission hasn't lowered it" or whatever. We would go into some detail, maybe a couple of pages, a relatively detailed opening statement on what we expected would be the gut issues.

As far as the witnesses went, I'm sure the staff talked to them in advance about what they were going to testify on. In fact, often they had papers—university papers or reports or leaked documents—and we would sometimes put them in the record. We would call them first to discuss their testimony. Sometimes they were people who were victims, really suffering. They were short witnesses. They might be people who couldn't send their kids to school because the school was shut down for lack of heating, or someone who had been injured by inept or unnecessary surgery.

So, we would interview the witnesses first, obviously. We never wrote their testimony—that could be very dangerous. But we would give them an idea of what we thought we would like to hear from them, and they would write their own testimony and give it to us in advance. I'm sure my guys looked it over, and if it seemed to be incoherent, they would probably suggest maybe rewriting it a bit, but I don't think we ever changed the substance.

The other thing was, we would always make sure to hear all sides of an issue. This was something I learned early. At one hearing I made a mistake, and I didn't have a witness for the opposite point of view. In other words, I didn't really have a strong industry witness opposing what we were trying to do. It's absolutely essential that you have both sides at a hearing. Otherwise it's incomplete, it's biased. So after one mistake, as I recall, I realized what I had

done wrong. We always made sure we had a strong witness from the American Petroleum Institute, the American Medical Association or someone like that, or a particular company.

Many times the witnesses became angry, like Mitchell Petroleum's president. I see we referred them to the Justice Department for not being truthful with the Federal Power Commission. I mean, that was a fiery hearing. They fought back very hard. In any event, preparing for a hearing sometimes involved something like preparing for a trial, but you didn't have cross-examination. Well, you might have cross-examination of witnesses who came in on the other side of an issue.

Moss usually yielded to counsel to start the questioning. He would give the opening statement, he might ask one or two questions, and then he usually yielded to counsel who was handling that hearing. Sometimes it was me, but I learned after a while I couldn't possibly handle more than a few of them, so it was usually Elliot Segal or John Galloway, the energy counsel, or Lowell Dodge or one of the other lawyers. We tried to get everybody a chance to sit next to the chairman, and he often gave them a chance to ask questions. Then he would yield to the Ranking Member, Jim Collins or Norman [Frederick] Lent usually.

But sometimes Moss questioned first and then went to his counsel. Then you let the Republicans, the minority at that time, question. That did get some Members a little bit annoyed, that they had committee counsel questioning before they had a chance. But the stuff was so complicated that I guess it was Moss' feeling that he needed someone who had really drilled down in it for several months to handle the questioning.

One thing that sometimes kept me up at night was the concern that we might make a factual mistake in one of our many reports. After all, we were dealing with very complex technical issues. The industry and the agencies had many top experts. We were almost always outnumbered. But we had really smart subcommittee staff and great sources of information. As far as I know, we never did make a mistake. But I did lose some sleep over the possibility.

That was kind of the way it worked on Oversight.

**KOWALEWSKI:** That was going to be one of my questions. Given the huge workload—having to delegate the responsibility, having to hire staff—how did you go about finding the leaders to head these task forces? Do you remember?

**LEMOV:** Moss pretty much delegated that to me. I would bring on the staff. I would suggest the people to him. He usually followed my recommendation. Even with a former Congressman who wanted to work for us, he told me to make my own decision on the question. Elliot Segal was referred to us by Magnuson's staff. He had been a one-year intern with the Senate Commerce Committee, and he was leaving to go back to Yale or somewhere else. We wanted to do health care, so we were glad to hire him. Lowell Dodge had been a Ralph Nader associate, and we had read his book called *Small—on Safety*[: *The Designed-in Dangers of the Volkswagen*], which was about the Volkswagen.<sup>17</sup> I knew him distantly, but not well. Then he had a huge falling-out with Nader, and he was looking for a job. I knew he was a really talented writer, and he turned out to be a very fine investigator and writer for the subcommittee. The fellow that headed the energy group, John Galloway, just rose up through the ranks, and we thought he was really good. None of them had political connections. Moss hired on merit, he couldn't afford not to.

Another small digression. It is interesting that when Moss took over Oversight he did not fire all of Staggers' people. He kept the staff we thought were good. We did not blame them for the big battle. They were professionals. We treated them that way. A few years ago, I was at a cocktail party, and one staff person who was a Staggers appointee told me he was sure he was going to be canned when Moss came in there. He said to this to me, 30, 35 years later, he said "you saved my job." I said, "I didn't save your job. First of all, the chairman did. Secondly, he did it because you were competent." Some of Staggers' people we didn't think were competent, because they'd been sitting up there doing nothing for six years while we watched them. But a couple of his people were very good. One of them I remember, Ben Smethurst, was a former FBI agent who was a good investigator. Then there was Mark Raabe from the Federal Power Commission staff, who served until Moss retired years later. He was extremely competent. So, we did keep some Staggers people on.

Finding staff was usually by word of mouth. There wasn't any application process. We built the staff up too. You reminded me that when we took it over, it was perhaps 13 people. But Moss had so many things he wanted to do, we kept hiring more people. We had to. So, I believe it got to be about 30 people. I also believe the productivity of those four years was at least the equal of any subcommittee in the history of the House of Representatives. I could be wrong on that, that's a historical guess. But it was a very productive four years.

**KOWALEWSKI:** Let's take a break here because we're running out of tape, and we'll pick up.

### **END OF PART ONE ~ BEGINNING OF PART TWO**

All right, we're back from a quick break, and when we left off we were talking about the nuts and bolts of what it takes to put together a hearing. Now, I'm curious to know how much you worked with the full committee at all, given the sort of rough relationship now between Staggers and Moss. I'm curious to know what your subcommittee's relationship was with the full committee and then, more in particular, your relationship with the staff of the full committee.

**LEMOV:**

Certainly. The Members got along very well. I suppose there were personal disagreements among some of them, but overall the Commerce Committee was a very collegial place, even after the Staggers–Moss disagreements. The underlying issue was not really just Moss, it was all subcommittee chairmen versus Staggers. Afterwards, Staggers remained pleasant and nice and dignified but he didn't have the power he had previously.

Staff relations around the committee, I thought, were good. It was a pleasant place to work. I think the productivity of the Commerce Committee and its six subcommittees went through the roof after the subcommittee chairs "revolted" and after Moss' takeover of the Oversight Subcommittee. I would say the Oversight Subcommittee's productivity probably increased 10 times or more. I would say the legislative output of the full committee probably increased substantially as well. This is in terms of quantity. I think the quality was always good.

One reason for the quality of the legislative output being good is we had really good full-committee staff, and we worked very well with them. The people who were delegated by Staggers to work with Moss' Oversight Subcommittee were supportive of his goals. They were not involved much in the details of the Oversight investigations. In fact, I don't even remember if

they had someone who covered anything we were doing in Oversight. They just left it to us.

But on legislative matters, Bob Guthrie, Charlie Curtis, Jeff Schwartz were sympathetic to Moss' goals—helpful, good draftsmen. We also had wonderful assistance from the Legislative Counsel's Office. They had Bob Nordhaus and other good people who would go over our legislation with us, so that the product was better. As I learned from writing a book, you can go over something five times yourself, and you'll miss something no matter how many times you do it. It is the same with legislation, but even more so. So, the legislative counsel was indispensable, and we always worked closely with them. In fact, my recollection is they actually came to the markups and hearings of our committee and sat along with the committee counsels and subcommittee counsels, and sometimes were even asked technical questions by Members. So, there was a really good staff relationship.

There weren't any personal difficulties that I remember. There was a little bit of jealousy, as I mentioned, with the Energy Subcommittee because we were doing so much work in energy and were getting so many headlines, but that was minor. I think overall, the relationships within the Commerce Committee were good, and I never saw any evidence that there was any jealousy or anger by other House committees that we were doing so much. In fact, I think to some extent they tried to do the same thing.

**KOWALEWSKI:** Given the kind of breadth of the committee agenda, you dealt with a lot of federal agencies, and you dealt with a lot of private industries and corporations and, really, whole sectors of the market. I'm curious to know if either one of those sides, so to speak, was ever more resistant than the other in wanting to come talk to you, wanting to come testify before you. All of which is to kind of talk around the bigger question that I'd like to ask, about

your subpoena power that the committee had and how often you had to wield that, what the decisions were behind those decisions.

**LEMOV:**

At one point somebody called Moss “the subpoena king.” But I don’t recall that we issued that many subpoenas, probably 10 or 15. Most of the time, our invitations by letter were accepted voluntarily by the business that we subpoenaed, or the private individuals or the government agencies. After a while I think they knew we would enforce them.

There were two situations, as I recall, where we had instances of noncompliance, and Moss pursued them. He, of course, had to get a vote. Issuing subpoenas was largely delegated to the chair by the committee rules. But when a subpoena was not complied with, he had to seek a contempt vote from his subcommittee, and then the full committee, and then the full House. Moss did it successfully at least twice. Then he had to get funding for judicial enforcement.

The method of enforcing a congressional subpoena is often lost in the mists of time. It isn’t usually done, but there are two ways. Moss actually instructed me on this. I didn’t know anything about one of the enforcement methods. I guess he had done his legal research because he told me the subcommittee could direct the Capitol Police—after we and the House had voted a contempt citation for disobeying our subpoena—to go out and enforce it.

To my surprise, Moss said “Congress does not need to rely on the executive branch or the United States Attorney to enforce its subpoenas. The Congress is,” he said, “a coequal branch of government. We have the right to enforce our own subpoenas.” The Sergeant at Arms, that nice old fellow down near the House Floor—I used to see him every once in a while and say “hi”—could, said Moss, be directed by the committee and then the Speaker, to go

out and arrest the person in contempt and then imprison that person who did not comply with our subpoenas. They would be imprisoned until they complied. Where? Moss said that there was a jail in the basement of the Capitol, and they could use that jail. Heavens, I'm glad that never was tried, at least not in the last hundred years or so. But, I don't think Moss was really serious.

When he actually got to the point when he was defied on issues like the Arab blacklist of companies doing business with Israel and by the Mitchell Energy Corporation over alleged perjury and the Ashland Oil matter over reserve data Ashland claimed was a trade secret—in those three instances that I remember, he sent the matter either to the Justice Department for prosecution or in two cases he went to the House Floor with resolutions authorizing funding for the subcommittee to hire private counsel to represent the House of Representatives.

In two cases we went to the United States court of appeals and won. They were against AT&T for the wiretapping data—that was a very important precedent—and the case against Ashland Oil for the production of oil and gas-reserve data which, as I mentioned before, was crucial in the pricing of regulated oil and gas. Moss used the courts, with the authorization of the House of Representatives, and spent a fair amount of money hiring Joe Califano's law firm for the case against Ashland, and Hogan & Hartson against AT&T. The House prevailed, and Ashland was directed to produce the reserve data to the subcommittee. Their argument was, it was a trade secret—that Congress cannot obtain a trade secret in the course of a properly authorized investigation. Well, of course it can. It can get anything that affects legislation or would assist in the drafting of proposed legislation or

that affects interstate commerce, subject to some constitutional defenses. But this company was bullheaded. They lost.

Then we hired another law firm to sue AT&T after they refused to give us records of wiretaps they had conducted without a warrant on behalf of the Justice Department. That was a really even-more-important precedent regarding the power of Congress. Here is how that confrontation happened.

Moss was approached by a Member of Congress, Bella [Savitzky] Abzug, who was very angry because she thought she was being wiretapped. She was an outspoken liberal Member from New York who wore a big hat in the House and fought for women's rights. That really made her famous, the big hat and the women's rights issue. She was a somewhat large lady, and Moss kind of ran away from her because, although he didn't disagree with most of the things she was in favor of, like women's rights, he found Bella a bit too hard to handle. Now Moss had two daughters, Allison and Jennifer. He was a strong supporter of women's rights. But Bella Abzug could be very pushy, and Moss would tell me "Here she comes again."

But one day she told Moss that she thought she was being wiretapped, and there were other political figures who were being wiretapped by the Republican administration—I think it was the Nixon or Ford administration. She had some kind of evidence that convinced the chair that he should look into the matter. The way they would do it, we believed, was the Justice Department would ask AT&T by letter to put a tap on somebody's telephone line, perhaps a Member of Congress. Maybe they have different ways of doing it now. But Moss wrote a letter to AT&T telling them to turn over the list of persons that were being wiretapped. Moss believed Members of Congress were being wiretapped, and that this was

unlawful and a breach of the separation of powers. I think that's probably how he sold the issue to the House. And sell it, he did.

AT&T refused on orders of the Justice Department to turn over the list of wiretapping subjects. The Oversight Subcommittee voted a subpoena. The White House asserted executive privilege over documents in the possession of a private company. That really got Moss's attention. The House voted to support the subcommittee. The President was asserting executive privilege over documents in the possession of a third party—AT&T. So, you had a constitutional confrontation. Moss took it to the district court. I think I argued the case on the preliminary injunction either in the AT&T or the Ashland case. It came up very fast. I won the preliminary injunction argument, before Judge Alexander Holtzoff. Then the subcommittee hired outside counsel again.

It's amazing. Here was a committee of Congress involved in a lawsuit with the President, and he had the Department of Justice, and we didn't have a House Counsel's office at that time. That may be one of the institutional fallouts of this era and Moss' activity, that the House created a permanent Office of Legal Counsel. So, I actually argued that early case. I got the preliminary order in one case, I'm not sure which one it was. But the district judge in the AT&T case went the other way in his final order and held that Congress could not compel the production of wiretapping information, on grounds of the executive privilege claim. Moss had our lawyers take the case to the court of appeals, which reversed and held that Congress was entitled to the information.

So, we have a precedent that the President cannot claim executive privilege regarding information that is in the possession of a private company. But the court of appeals hesitated to order the production of all the documents, and

sent the case back to the district court to administer what the court hoped would be a negotiated settlement. It essentially deferred to the other two branches of government. We won the battle, but my recollection is we didn't get very good information from AT&T, so we lost the war. The materials they delivered to us weren't very helpful on who was being wiretapped. We just couldn't afford to spend more time and money on the case. So Bella Abzug, who was the initiator of this whole long, expensive thing, must have been disappointed. But the committee activity report for the 95th Congress accurately reflects the future precedential value of that legal victory.

We also won Ashland over their trade secret argument. That was victory number two. [The Department of] Justice refused to prosecute Mitchell Energy, and Moss did not pursue it further in terms of litigation. So, the learning of these three cases is that Moss and the subcommittee and, eventually, the House wished to expand the power of the legislative branch. It was an example of Moss using every power under his command, including subpoenas, contempt, other agencies, litigation, in order to broaden the powers of Congress. Moss considered Congress to be the primary branch of government. He thought Article I meant first among equals: the People's House.

**KOWALEWSKI:** Moss knew the House rules perhaps better than anybody during his time there. That's one of the things that made him famous, but he didn't have any legal background, so to speak. He had no legal training. We talked about that in your first interview. Did he rely on you at all during this period to give him legal advice? You said you took the cases on, but I'm curious to know, where—if not in the House rules—where it was that he was developing his strategies to pursue legal ramifications for those who failed to comply with his requests.

**LEMOV:**

I think he just developed his strategy when we had hit a roadblock. When we got a refusal to comply, Moss then looked around for ways to seek compliance with the mandate of the subcommittee and, ultimately, the House. He didn't necessarily ask his legal staff, including me, beforehand. He just made the decision to pursue an issue and told us to implement it.

He did seem to know about the House jail and the fact that, theoretically, we had the power to arrest people on behalf of the House of Representatives—probably from his own research. Moss was a great reader. I certainly did not recognize that power. I don't know if it has been done in the last hundred years. But I believe it has been done historically, and Moss thought we had that power. Perhaps he was talking to someone at the Library of Congress. He liked the American law division. He may have been talking to other Members. But he made the decision, and then he told us to implement it. He may also have been talking to the Speaker and the leadership in advance. He must have been persuasive.

I am sure he also counted the votes, at least in a general way, before he proceeded. Moss was not out of contact with the House Leadership at all, by this time after Watergate. There was no love lost between the Congress and the executive branch at this time. I think the leadership may have found he sometimes would go beyond where they wanted to go, such as his floor statement that he thought impeachment proceedings should be commenced against President Nixon just after the Watergate break-in became public. He was the first Member of the House to ask for that. I don't think the leadership was ready to do that yet. That is one example.

I think his opposition to the Vietnam War, when he went on the floor and said that we should get out of Vietnam, he was one of the first House Members to do that. Again, I think he was getting out in front of the

leadership. So, in those areas, he caused some problems for them, but not on the question of the powers of Congress. Moss got along quite well, though, with Sam [Samuel Taliaferro] Rayburn, less well with later Speakers. Perhaps he became more aggressive as he got older, or tougher or more determined to assert the rights of the House of Representatives and the consumer. He really believed that Article I meant the House and the Senate were number one and that the executive answered to the Congress. So, to go back to your question.

**KOWALEWSKI:** Where Moss was getting his information from to pursue these cases?

**LEMOV:** Oh, well he used staff a lot. Remember, we had an agenda he had approved. On some of these decisions, he must have simply made his own mind up. After all, he had a well-defined set of values from the beginning of his career: open government, protect the common man, the legislative branch was first among equals.

**KOWALEWSKI:** Both of those examples that you mentioned—well in particular, we'll get to the Arab boycott because I want to go into that a little bit—

**LEMOV:** Okay.

**KOWALEWSKI:** —in more detail because this is such a fascinating case. But it really highlights this inherent tension between these two branches of government. How would you describe his relationship with the Ford administration? Because that's when he was really pursuing, actively, these investigations and regulatory.

**LEMOV:** First, I have to tell you a story of how we got into the Arab boycott issue. This is kind of unusual. As you may recall, the Arab League instituted a boycott of companies that did business with Israel after the Middle East War of 1973. Those companies were placed on a blacklist. The threat was to deny

us oil and to deny those companies, I assume. The U.S. government cooperated, Moss thought, by maintaining the list of boycotted companies for other nations and companies to see. There was some adverse result from being on that list. If a company did business with Israel, it was placed on the boycott list. I don't know that the U.S. government actually did anything, but it somehow kept the list.

So, how did Moss get into this foreign policy issue? Well Moss wasn't that concerned about it, until one Member, a Congressman named Jim [James Haas] Scheuer of New York, who happened to be on his subcommittee, came to him very upset about it. So, here's an example of a new issue being dropped on us, and this was not on our agenda. It sort of annoyed the staff. I say it in kind of a joking way, as if the chairman can't add something to the subcommittee agenda, but the staff was annoyed. Here we had this agenda going into energy, regulatory reform, and health care, and Scheuer wanders in complaining about Commerce Secretary Rogers Morton and the Arab boycott of Israel.

Now, we liked Israel as well as the next guy. But we had our big agenda and weren't about to go into foreign relations, or so we thought. But Scheuer was determined, and in this instance Moss yielded to Scheuer's pleas. He went so far as to have Morton come before the subcommittee. Morton, unfortunately, made the mistake of refusing to deliver a copy of the list to Moss—not a good idea with Moss. The refusal of what Moss deemed a valid request from a subcommittee of Congress got Moss' dander up. So he got a vote before the subcommittee, holding Morton in contempt for failing to deliver the list, for whatever purpose.

I remember that Moss and I went over to the Justice Department and met with Attorney General Griffin Bell and his staff—just me and Moss with the

Attorney General and his large staff—about how we could compromise this matter.<sup>18</sup> The AG was Griffin Bell, a [President Jimmy] Carter appointee, so we were fighting with our own people thanks to Scheuer and Morton. We tried to avoid the citation of a Cabinet member for contempt of Congress, but we could not get an agreement. It deadlocked. Moss was amazing. Here he was, sitting in this huge office of the Attorney General, all these assistant attorney generals there—just myself and Moss. He didn't back down. He just said, "Sorry. If you won't work out our getting the documents, we will be forced to go forward with contempt."

The subcommittee cited Secretary Morton, a former House Member, for contempt of Congress. It was one of the first times a Cabinet member had been so cited, and over an issue the staff really thought was totally peripheral to our jurisdiction and primary issues. We did not even want to go into it in the first place. We never went to the floor with it. Moss counted the votes and figured we could not win. Morton was popular with the Members. We never should have gone down that road in the first place.

**KOWALEWSKI:** He was voted in contempt 10 to 5 in the subcommittee, and I'm pretty sure it was about to come before the full committee, when Rogers Morton finally relented and said, "Look, I'll cut a deal, and I'll give you this particular set of information so long as it stays confidential," because he felt that was going to be a violation of some policy.

**LEMOV:** So, there was an agreement made. I had forgotten that. I just know it didn't go to the floor. It took a hell of a lot of staff time.

**KOWALEWSKI:** Well, Moss turned the deal down eventually.

**LEMOV:** Oh, he did?

**KOWALEWSKI:** He did. Then somehow, on December 8th, Rogers Morton finally agreed to turn everything over.

**LEMOV:** Perhaps with some agreement on confidentiality, that would have been a huge concession. We always asserted congressional power to make its own decisions on confidentiality. It was a loser on a fringe issue.

**KOWALEWSKI:** I'll have to go back and check that. I can't remember off the top of my head.

**LEMOV:** I know we had a safe in the Oversight Subcommittee office labeled "Do Not Open. Security Clearance Required." I had to get security clearance. I still have security clearance. I don't think we ever made the documents any way public. We wanted the precedent established that Congress can see whatever it needs to see, but when it came to risking national security or damaging foreign policy, Moss was pretty careful not to ever break a pledge or leak anything. We were sensitive to the fact that there was an assertion that Congress leaked everything like a sieve. Moss wanted to prove that Congress could be as "responsible"—quote, unquote—as the executive branch in handling sensitive data. So, you remind me that he did move forward with the Rogers Morton thing. But what a lot of time and effort it took.

**KOWALEWSKI:** What was the response? Do you remember what the response was to that contempt citation, just in the subcommittee in general, and then maybe throughout the House?

**LEMOV:** Well, he won the subcommittee vote, 10 to 5, and that's greater than the party ratio at the time, so he had some Republican votes. Beyond that, I think the Members generally supported asserting the rights of the House of Representatives. I don't remember the details. I remember he came into my office and said, "Mike, I don't think we have the votes on this one," and I can't be sure if it was the Rogers Morton matter, but I think so. So, we

negotiated and got something. But in my opinion, it was not worth the effort.

**KOWALEWSKI:** Well, you brought up an interesting point that actually very much mimics what Moss said in 1975, and I'm going to read you a quote about making sure that Congress has access to everything that it needs to see. On November 12, 1975, he's quoted as saying, "Congress cannot surrender its constitutionally mandated duty of oversight in a statute unless it does so expressly, and not by silence or implication."

**LEMOV:** That's a pretty good legal statement of the power of Congress, and he didn't ask me to write that statement, I think that was just what he believed. I think Moss believed that Congress had the right to see anything in the possession of the government that a duly authorized subcommittee voted to see. Anything, whether it was national security-sensitive or not. I remember him telling me, "We can keep a secret just as well as the President and the executive." That is why we got the safe—when we got the Ashland Oil trade secret data, and we got the AT&T's alleged response on wiretapping, and we got the Rogers Morton response. All that material was in this big safe, which was usually locked. I think I had the key, and maybe one other person.

So, Moss believed that a committee of Congress can get anything it wants from the executive branch. What did he think about whether we could release anything to the public? Well, it became a matter of judgment by the Congress. I think Moss would have said, "We have the power to release anything Congress wishes to the public that it thinks is necessary for the public to know." But he was really wary about doing something which could compromise national security or foreign policy or something of that kind, or injure a business through a release of a trade secret. It was a balancing act which we never really were forced to get into. Moss tried to be as responsible

as the executive branch in keeping essential secrets, but I'm sure he believed that Congress could get anything and tell the public anything. After all, he was the author of the Freedom of Information Act.

Remember, even in the Freedom of Information Act, there are nine exemptions from release of information, including information that will compromise national security. Moss wanted most to demonstrate the right of Congress and its responsibility. Luckily, we never got beyond that issue. He said at a hearing once that nobody would want to disclose information to the public which would actually harm national security. The Congress was as responsible as the President. The only issue was, what was actually national security-sensitive, and what was just embarrassing to the administration? I am sure Moss would have also weighed the public's need to see the information. It is an issue I am glad we did not have to get into. We had enough to do.

When you think about the current question of WikiLeaks, it is a close question regarding the legality of releasing the information. It has nothing to do with the Congress, but there we have illegally leaked documents which potentially could cost the lives of American and allied agents. Perhaps people have a right to know about some of it. But it has apparently been indiscriminately published.

I don't think Moss would have released that kind of material, because of the danger to our officials and our allies. He made it clear in the hearings on the Freedom of Information Act that he did believe there was a certain amount of bona fide national security information. He just didn't think it should be extended unnecessarily. That is where the judgment comes in.

**KOWALEWSKI:** How frequently did you deal with Rogers Morton's staff? You said you talked with the Attorney General, but I'm curious what your relationship was with, perhaps, his staff in that legislative-executive relationship.

**LEMOV:** I do not think we had much contact. I think Morton was represented almost immediately by the Department of Justice. So we would have talked to them, or our attorneys did. We didn't have much to do with Morton's staff at all. I do remember getting a call from a gentleman by the name of Antonin Scalia—how does one pronounce his name? He was, at that time, working in the White House, in the Office of Legal Counsel. We had quite a heated conversation over the telephone. It was not pleasant.

Scalia, I believe, argued we should back off on our request for the Arab boycott list and the contempt citation of Morton. I said that I did not agree, and that Congress had the power to obtain the data. I did not think I even bothered to refer to Moss, although I was following his direction to me. Scalia was just a middle-level bureaucrat in the White House. There was no way he was going to convince me to do anything but what Moss wanted, which was get the information from Morton. So, it ended up that Scalia made some nasty personal remark about me. I have never forgotten that. So I just said, "Too bad, Mr. Scalia. Produce the list." And I blew him off. It was not a gentlemanly conversation on his part.

Years later, I argued a court of appeals case. Scalia was on the panel. He should have disqualified himself because I am sure he remembered me well, and I remembered him. I lost that case, unfortunately. It was for a public interest group. I remember the issue. It had something to do with the legality of a communications merger. Scalia was on the court of appeals panel and ruled against my client. He did not disqualify himself. I thought then, and I

think now, he should reevaluate his views on judicial ethics and recusal of justices who have a predetermined idea about a person or an issue.

**KOWALEWSKI:** Okay.

**LEMOV:** Just an anecdote I thought you would be interested in.

**KOWALEWSKI:** Yes, wow. Earlier, you talked about knowing Ginsburg?

**LEMOV:** Yes, Ruth Ginsburg. Well, yes, that's not related to my interaction with Scalia. I didn't run into Justice Ginsburg in connection with my Oversight work or committee work. But I do know her because she was my classmate for a while, at law school.

**KOWALEWSKI:** Yes, interesting coincidence.

**LEMOV:** I wonder if Justice Ginsburg and Justice Scalia are talking a lot over at the Supreme Court, how collegial they may be.

**KOWALEWSKI:** So, you left halfway through the following Congress?

**LEMOV:** Sometime like that. That's my recollection.

**KOWALEWSKI:** Yes.

**LEMOV:** A little before Moss announced his retirement.

**KOWALEWSKI:** Right. Did you talk to Moss at all about his retirement? Was that one of your reasons that you decided to leave?

**LEMOV:** No, actually, that was not—unless I sensed it. I do not remember knowing he was going to retire when I left. He never appointed a successor as chief counsel. He let the three task force chiefs work as a group with him, and that seemed to work pretty well. No, perhaps I might have gotten a little burned-

out, a little bit tired of dealing with some of the issues, and I just thought it was time for me to move on. So I told him in advance, of course, and he said, “If you want to leave, that’s up to you.” He was very gracious.

I’ll never forget, we had a big going-away party for me in one of the Rayburn hearing rooms. We had a lot of people there from business and government. I was walking around, talking with a lot of people. I didn’t know where I was going next. I had no idea where I was going to go or what law firm I might wind up with. In those days, legislative experience was not that important. The law firms I planned to approach—not lobbying shops, not corporations, I just wanted to be a country lawyer like my dad—the law firms didn’t really value legislative work very much in those days in Washington. Many firms looked down on it. Now they all have lobbying groups, and it is a big profit center.

Well, Moss made a wonderful talk there, saying that he wished me well and that he thought it was a fine thing that people from the public side were going into the private sector, in order to have a cross-fertilization of ideas and views. He was really slapping me on the back and saying, “Come back and see me some time.” They all heard it. It was a great send-off for me. But I did not know he was going to retire at that time.

**KOWALEWSKI:** In your book, you mentioned that around the same time period, that the consumer movement, so to speak—this general push towards making products safer and companies more accountable for the products that they sell—was really kind of on the downslide, and that few people, including yourself, got these signals. The signs were there, but I guess not a lot of people began to notice it. Moss left in ’78. Magnuson was around for one more term after that, to complete his final term in the Senate. Do you remember what the atmosphere was like on the Investigations Subcommittee

towards the end of Moss' career, especially how you'd approach consumer safety issues?

**LEMOV:**

Well, it wasn't only consumer safety. Moss believed deeply in consumer safety, consumer information, vigorous competition in the marketplace, and all of those goals were part of his agenda—together with adequate health care and educational opportunity. So, it wasn't just consumer safety. But I had left. I wasn't there to closely observe the attitude after his retirement announcement.

But the guys and women I had hired, with Moss' approval, were there. From what I was told and observed, they just kept on going. That staff kept going like an express train. I was looking at this list of 95th Congress subcommittee reports. They even exceeded the 71 days of hearings we had in the 94th Congress, when Moss was chairman of Oversight. They put out just as many reports. I notice a little bit more diversity, as if they knew time was running out and were cleaning up some things that had been hanging around—subjects like the NCAA [National Collegiate Athletic Association] due process investigation. I never really thought that was particularly important in the broad scope of things we did. I am sure it was important to athletes or coaches that didn't get a fair hearing, but it was a relatively small issue.

Another investigation they did—one I sort of triggered—was generally accepted accounting principles and the accounting profession. Moss and I used to talk about this a lot with other members of the staff. Many government agencies and investors rely on the accuracy of financial statements produced under generally accepted accounting principles. They were, and probably remain, very broad, and they are set voluntarily by the accounting profession. So a company could show its profit as higher or lower,

depending on how much it could convince its accountants to move things around or accelerate losses or take income now.

Enron was a major example of this problem. I think Moss' hearings on this issue and his interest in better standards for accounting for large corporations may have been a factor in the creation of the Financial Accounting Standards Board and the SEC's [Securities and Exchange Commission's] greater authority over accounting standards. I don't know how far that went since he retired, but that was a big investigation. Some of these other things seem like cleaning up of loose ends. But they never slowed down. That was my impression.

One of the major investigations toward the—which may have started while I was there but was finished after I was gone—was the Firestone 500 steel-belted radial tires. In that case, Moss actually forced NHTSA—N-H-T-S-A—to enter into a recall agreement with Firestone, which recalled millions of defective tires and foreshadowed the Toyota acceleration recall of about two years ago in terms of scope and impact. So, Moss and the Oversight Subcommittee could have a tremendous impact on industries and agencies and consumers. So, to get back to after I left, I think they just kept blazing away, but I don't think they stuck quite as closely to our policy agenda.

So, you asked the effect of Moss' retirement announcement on daily business. I don't see any effect at all. I think he kept going full bore to the last day.

**KOWALEWSKI:** Interesting. I had some questions here. You know, the committee picked up oversight over nuclear energy, to start the 95th Congress I believe, and then there were some big reforms between the 95th and the 96th [1977–1981], when all of a sudden the committee took on additional jurisdiction over

other national energy issues. Were you around or involved in those debates at all?

**LEMOV:** I never thought we lacked jurisdiction. Moss, with the backing of the subcommittee and the full committee, had a very broad jurisdiction over issues affecting interstate commerce. There was something on the uranium cartel, which we did an investigation of an alleged cartel fixing the price of uranium. I don't remember any major impact coming out of that. The next chairman of the Subcommittee on Oversight and Investigations still seemingly following Moss' pattern, I believe was Bob Eckhardt from Houston, Texas. He may have been one removed—there may have been one between Moss and Eckhardt.

The subcommittee stayed pretty active, but there was some slowing of its pace from my vantage point. Moss was actually pro-nuclear. He came from a generation that thought nuclear power was the answer to our energy problems. In that sense, he differed from the next progressive generation, who remain very worried about the safety of nuclear power. I don't know what he would say today. He was quite capable of changing his mind.

**KOWALEWSKI:** Well, I kind of want to step back a little bit and talk a little bit more broadly about your career on the Hill—kind of got through some of the more specific questions that I wanted to ask about subpoena powers and whatnot.

**LEMOV:** Were you going to ask me about the consumer movement?

**KOWALEWSKI:** Yes. We can continue to talk about the consumer movement, if you want.

**LEMOV:** I'd like to just make a comment on that.

**KOWALEWSKI:** Yes, by all means.

**LEMOV:**

Well, you asked, you know, was there a downfall or a withdrawal of the consumer movement after the era of the 1970s. I would say that it was more of a pause. It is always there. The problems are never-ending in our economy. We will never have a perfect market or adequate competition. For instance, about four years ago, Elizabeth Warren, who was then a professor at Harvard Law School, wrote a paper called “Unsafe at Any Rate,” which was really based on *Unsafe at Any Speed*, Ralph Nader’s book on automobile safety. She used as an example of consumer protection the toaster, which she said was subject to Consumer Product Safety Commission jurisdiction for fire and other possible hazards. She pointed out that, as to financial contracts like credit cards or mortgages, there was no jurisdiction whatsoever on misleading statements or charges or fees or excessive interest rates.

She used the CPSA as an example for recommending in her article, and later on to the newly elected President Barack Obama, a Consumer Financial Protection Agency. It was enacted by Congress in the Frank–Dodd [Dodd–Frank] legislation and is, in fact, based on the model of the Consumer Product Safety Commission.

So the answer is no, the consumer movement has not ended, it is simply—I would say it is waiting for the next round. The “consumer movement,” if there is one, is really the public. It is people responding to the public’s needs and desires. If you polled the public now about whether they want safer products, it would, I believe, come out two to one in favor. If they want safer automobiles, it will come out heavily in favor. If they want lower prices on commodities and gasoline and natural gas, the poll will come out in favor of those things. So the answer is, the consumer movement, whatever that is, is just waiting for a new leader or a time.

Here is an interesting anecdote. At a book reading I had a few weeks ago, someone asked a relevant question. Joan Claybrook had introduced me. Claybrook was administrator of NHTSA under Carter. Of course, she was the president of Public Citizen for many years, which is one of the key consumer organizations in the country. So, Claybrook was sitting there when the question-and-answer period opened up, and a reporter asked a question about why the public doesn't care about consumer protection anymore. Claybrook grabbed, or rather asked for, the microphone from me, and I handed it to her. She turned to the reporter and said, "You're asking the wrong question. The question is, 'Why doesn't the Congress respond to the public's demand for consumer protection?' Not why the public doesn't care about it." She quoted some polls she had right on this point, indicating that the public wants more consumer protection, but the Congress is not delivering it.

**KOWALEWSKI:** What about the legacy of some of the reforms that you worked on here? What do you think the broader legacy is there?

**LEMOV:** Well, most of the legislative reforms of Moss and the other leaders of that era are still the law. They need to be enforced better and in some areas expanded, but the laws are still there. We also talked about legislative oversight. I think the record of oversight that Moss' Subcommittee on Oversight and Investigations and its effects, remain to be equaled by some future subcommittee of Congress. There is no reason why Congress cannot, in any given area or in many areas, pursue vigorous oversight and get results, as Moss did. That is a matter for the Congress, for the House and Senate, to decide. It depends on the priorities and desires of the Members.

As far as Moss' legislative record, it is one of his great legacies. I cannot and would not claim that Moss acted alone. He had great allies over in the

Senate, in Warren Magnuson, the chairman of the Senate Commerce Committee, often Norris Cotton—the Ranking Republican from New Hampshire—Phil Hart of Michigan, and others. He had great allies here in the House, in John Dingell, Bob Eckhardt, and others. But Moss was a leader, and movements need leaders. He was the leader at that time in the House. He took the heat.

So his legacy is, I think, very important. We still have a Securities Investor Protection Corporation, which Moss created with Ed Muskie, before he took over the Commerce and Finance Subcommittee, to insure investment accounts. We still have competitive brokerage rates. We still have enhanced enforcement powers for the SEC, if they will use them. We still have a Consumer Product Safety Commission and a potentially stronger Federal Trade Commission to protect consumers against deceptive advertising.

I once asked Moss' former Securities counsel what happened in 2008 with all those enhanced powers that the SEC was given to regulate the net capital of securities firms and compliance with accounting rules and avoiding excessive risk. He said they just failed to regulate. You can pass a law, but you can't necessarily make an agency implement it. Moss tried to make them implement the law through Oversight and other means. But it is not always successful. And of course, there develop gaps in the law over time.

Moss once said something similar about the Freedom of Information Act. Somebody asked him, "Are you satisfied with FOIA?" This was years after he left the Congress. Moss said, "If you ask me 'Are we better off now than we were in 1965, before the law was passed?' I'd say we certainly are much better off."<sup>19</sup> If you ask me 'Are we where we should be?' the answer is definitely no." He said, "It is a never-ending struggle."

So, the laws and the legacy. The Freedom of Information Act remains one of Moss' greatest achievements. It was used by almost 600 thousand people last year to obtain government information. Much of that wound up in the newspapers, and a lot of lives were probably saved because of it. Certainly, people know a lot more about the functioning of their government. We have a viable Consumer Product Safety Commission, a potentially reinvigorated Federal Trade Commission, a National Highway Traffic Safety Administration that vacillates—but it still exists—an SEC with significantly enhanced power to protect the markets, and the sweeping record of his Oversight accomplishments.

So the framework that Moss created, with other Members, the legacy he left, is all still there. It has never been repealed. There is, from time to time, talk by some people of terminating some of these agencies, of repealing or weakening some of those laws, but no one has dared to do it. I think there would be a public outcry. Repeal has never really been attempted. If it was, there would be a great public reaction. So, I believe Moss and his colleagues on the Commerce Committee and in the House did leave a great and continuing legacy.

**KOWALEWSKI:** Reflecting on your own career, if you could go back and do anything differently?

**LEMOV:** I have to think about that one a bit. Perhaps I should have been a doctor, as my mother wanted. It would have probably been a more ruminative career, but it certainly would have been a hell of a lot less interesting.

No, upon reflection, I think that one of the most fortuitous things that ever happened to me was running into Magnuson's consumer counsel, Mike Pertschuk, that day when he asked me if I was interested in being general

counsel of a new commission they were setting up, the National Commission on Product Safety. That led me to John Moss and to my future.

Again, I would say to young people that if you think you want something, it pays to go for it. It pays to ask, as I asked John Moss for two jobs—first, when the national commission ended, on his Commerce and Finance staff, and then when he took over the Oversight and Investigations Subcommittee, I asked him to be the chief counsel. I don't think he was sorry that he said yes. I am surely not sorry. So, would I do anything differently? No, I actually would like another shot at it, to do it all again—perhaps even better next time around.

**KOWALEWSKI:** Other than encouraging people to ask, what kind of advice would you give to aspiring counsels, aspiring policy wonks, people who really want to come to the House and work in a committee setting and in a legislative or even an oversight setting?

**LEMOV:** Somebody once told me—a fellow legislative staffer—that you can do more with the stroke of a pen up here than you can do with a year's work of brief-writing at a law firm or a year's worth of lobbying for a corporation. There is immense power in the legislative branch. And my experience tells me that he was right.

Overall, I think politics at the staff or elective level is a noble profession. I think young people should go into it and should try to rise in the political system. Not so much to promote themselves or to gain money or fame, although that's often a valid motivating factor, but mostly to serve the public interest as best they can because that brings one great gratification, as John Moss proved. Moss left Washington an average citizen in terms of wealth and his personal comforts. He could have stayed in Washington and gotten very

rich as a lobbyist or a corporate official. He did not do it, and many other Members of Congress do not do it. So, to serve the public interest—that is the reason young people should go into politics. It will give them satisfaction. And they should never forget whom they represent.

**KOWALEWSKI:** Was there anything else you wanted to add? Because I ran out of questions.

**LEMOV:** Out?

**KOWALEWSKI:** I ran out of questions.

**LEMOV:** You ran out of questions.

**KOWALEWSKI:** Ran out of questions.

**LEMOV:** I talked you out of questions. Well, I just would add that a legislative career is a rare opportunity, a fine opportunity. I was very fortunate to have met and worked with John Moss and the other members of the Commerce Committee. I believe most of them deeply wanted—and I hope I served their interests in my wanting—to further the broad public interest.

**KOWALEWSKI:** Great. All right, we'll end there.

## NOTES

<sup>1</sup> Howard Fast, *Citizen Tom Paine* (New York: Duell, Sloan & Pearce, 1943); *Spartacus* (Blue Heron Press, 1951).

<sup>2</sup> Frederick J. Schlink, *Your Money's Worth* (New York: The Macmillan Company, 1927).

<sup>3</sup> Louis Adamic, *Dynamite: The Story of Class Violence in America* (New York: The Viking Press, 1931).

<sup>4</sup> The Commerce Clause (Article I, Section 8, Clause 3) of the U.S. Constitution states that the United States has the power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

<sup>5</sup> "The Sleepy Old Lady of Pennsylvania Avenue" was an informal name for the Federal Trade Commission.

<sup>6</sup> Ralph Nader, *Unsafe at Any Speed: The Designed-In Dangers of the American Automobile* (New York: Grossman Publishers, 1965).

<sup>7</sup> Michael Pertschuk, *Revolt against Regulation: The Rise and Pause of the Consumer Movement* (Berkeley: University of California Press, 1983).

<sup>8</sup> Michael R. Lemov, *People's Warrior: John Moss and the Fight for Freedom of Information and Consumer Rights* (Madison: Fairleigh Dickinson University Press, 2011).

<sup>9</sup> Sidney Margolius, *The Innocent Consumer vs. the Exploiters*. (New York: Trident Press, 1967).

<sup>10</sup> The Subcommittee on Foundations: Their Impact on Small Business was a subcommittee of the House Select Committee on Small Business.

<sup>11</sup> In the 91st Congress (1969–1971), William Levi Dawson of Illinois, born April 26, 1886, was the oldest serving Member.

<sup>12</sup> Housing was a subcommittee of the Committee on Banking and Currency.

<sup>13</sup> Abscam was an FBI sting operation in which political figures were investigated and convicted of accepting bribes from a fictitious Arabian company.

<sup>14</sup> No-fault insurance policies cover injuries caused by car accidents, regardless of who is at fault.

<sup>15</sup> Henry A. Wallace was vice president from January 20, 1941, to January 20, 1945 during Franklin D. Roosevelt's third term.

<sup>16</sup> Antitrust and Monopoly was a subcommittee of the Senate Committee on the Judiciary.

<sup>17</sup> Lowell Dodge, *Small—on Safety: The Designed-in Dangers of the Volkswagen* (New York: Grossman Publishers, 1972).

<sup>18</sup> Edward Levi was the Attorney General from January 14, 1975, to January 20, 1977. Griffin Bell was the Attorney General from January 26, 1977, to August 16, 1979.

<sup>19</sup> The Freedom of Information Act was signed into law in 1966 and went into effect in 1967.