

Interview with Robert J. Callaghan

November 15, 1979

(in Mr. Callaghan's office)

I thought I might run through some of these things with you. I've gone over the questions you have presented to me as to how the legislature empowered a commission to prepare a new charter for Philadelphia in 1951. There was an enabling act passed by the legislature, which I have a copy of for you.

(WMP: Who initiated that?)

I don't know. There was some corruption going on around that time and there was a Committee of 15.

(WMP: Do you remember Arthur Binns? He was the Committee of 15 and that's where Buck Sawyer came in and made his mark.)

I see. And he was the first Managing Director, wasn't he?

(WMP: Yes.)

Anyway, the legislature shot its bolt with this Act #155 of April 21, 1949, PL665. And I can let you have a copy of this if you'd like to take it with you. I don't know how this act came into being. That's background I just don't have any familiarity with.

Specifically, you asked whether I was -- participated in the effort to establish the charter in 1939. No, I read about that but I wasn't in on that at all. So I had no background that led to my going on the commission -- no legislative background.

You say in your questions -- you noted that there were six Democrats and nine Republicans on the Commission and ask me if I can give you the composition of the Commission and who was responsible for selecting the members. Well, Section 3 of the 1949 Enabling Act provides that the President of City Council shall name nine and the Mayor shall name six and of the nine named by the President of

a maximum
of ten

a minimum
of five

As it turned out,
there were nine
Republicans and
six Democrats.

City Council not more than six could be of the same political party and of the six named by the mayor not more than four could be by the ~~SAME~~ political party. So you can see that we had a built-in division of the 15 members -- ~~15~~ Republicans and ~~15~~ Democrats. Of course, every commissioner had to be a registered elector of Philadelphia.

I believe that nine Republicans were Fred Garman, Chairman -- he was President of City Council at the time; and Clarence Crossan, also Republican -- he was in Council at the time; and Tanner ~~Smolenski~~ ^{Duckrey}; he was with the school board; Mrs. Heydrick, I'm sure she was in the real estate business up in the Northeast; Ralph Kelly was Republican; and Bob McCracken; Judge Millen; and Tom Ringe is a Republican; and Mr. Schnader was a Republican. The Democrats were Lew Stevens and me and Abe Freedman, Joe Burke, Fred Mann, and Bob White. And all of these commissioners are dead now except four of us and the four living are Joe Burke, Fred Mann, Mrs. Heydrick, and me. Of course Paul Wolkin, the legislative draftsman, he's alive and kicking and should be very helpful to you. Paul ^{Adler} drafted the Charter and he had all the back and forth and he did the research. He's extremely bright. He just did a crackerjack job. Also, he was there through the whole gestation period from start to finish. Charlton Chute, the consultant, I don't know where he is now. He could be very helpful to you. He was a very sound government man.

You ask on a personal note how I came to be selected for the Charter Commission. It's a good question because I had no background in city government and no background in the theory of what you do. I was a member of the firm of Judge Flood's old firm, which way back had been Joe Clark's firm. I was with that firm until 1951, after the charter was adopted. Then I joined the Schnader firm. But as far as my selection -- I was selected as a Democrat by Mayor Samuel. He was limited to six appointments and two of those had to be Democrats. And sometime before this appointment came up he had made me Chairman of the Fair Employment Practice Commission which administered the Fair Employment Practice ordinance, enacted in 1947 by City Council.

(WMP: I bet Abe Freedman had something to do with that.)

I don't recall Abe working on that specifically although he probably did. He wasn't on the Commission. We had five commissioners administering this act which prohibited discrimination in employment on account of race, creed, color, or national origin within the city of Philadelphia. And at that time when that was enacted I think the only other place in the country that ~~had~~^{HAD} anything like that was either Massachusetts or Connecticut. Philadelphia was very early in getting it established and the Fellowship Commission was helpful in getting it established.

I had become interested in it because I was a member and then later President of the Catholic Interracial Council, which had the same goal. Now, Judge Flood was Chairman of the Fair Employment Practice Commission ^{and} after serving on it for a couple of years he wanted to retire from it and he recommended me to Mayor Samuel to succeed him as Chairman of the Fair Employment Practice Commission. And at that time Walter Alessandroni was Secretary to Mayor Samuel and I learned later that Walter had also warmly endorsed me to the mayor for that position.

I want to emphasize that it was a non-paying thing. We had staff but the five commissioners did not receive any salary. I think we had three Republicans and two Democrats on that commission with no particular reason for it. I met with Mayor Samuel about that and got to know him and then this came along and he got to know me as a Democrat ^{AND} so he appointed me to the Charter Commission.

(WMP: I think he got drawn into a lot of things but he was not very often initiating things, I thought.)

I think ~~that~~^{very} in the later years both he and Mr. Garman became ~~more~~ statesman-like. I think they both had a great approach to this Charter Commission and wanted to have real independent people. And, without talking about me, you can see the caliber of the people on the Commission. It was just a great group of men and they were really trying to get the best. And I'm not the one to say it because I was one of the fifteen, but I'm not talking about myself. But I was proud to be associated with people like this and we met and we were very faithful. I think they had our organization meeting in August of 1949 and we presented the City Charter to the city in April of 1951. I guess it was voted on in April. That's a good period of time -- a year and a half. And I didn't miss a meeting -- I didn't miss one meeting of the Commission. And we met not less than once a week. I was so proud to be on it.

(WMP: do you feel that that charter has stood up well?)

Yes. I thought this was a crackerjack commission. What the commission did, it invited everybody to come in and say what they thought should go in the charter. And without having anything presented ourselves. Just start from scratch with an open mind. And all sorts of experts came in and they gave us advice as to what it should be and we had some people that could even be considered crackpots -- but everybody had his inning. Then we wrote drafts on the charter and then that was submitted to the public and people were invited to come in and discuss our draft, including people who were in before. Now the difference was when they came in this time they couldn't come in -- now they had to do their homework. They had to address themselves to what we had written and say what was right or wrong with it. And that was very very disciplined and we learned a lot from that. And finally from that we got a draft that we could present to Council and also felt that the city as a whole had participated in drafting it.

intelligently unless they first read our drafts

(WMP: Did you remember there was a Citizen's Charter Committee which was formed to support what was done?)

Yes. To implement it.

(HMcM: Where did the meetings take place?)

A lot of the meetings took place in City Hall and ^{THEN} we found a place near City Hall. ~~But~~ We ^{RENTED} a place somewhere near City Hall and we had ^{RENTING} gotten appropriations from Council for a staff and for ~~renting~~ the place. But none of the Commissioners were paid anything.

(WMP: Was Buck Sawyer a staff man to the commission?)

No. I don't think he was. My recollection is that Joe Clark made him Managing Director. He died very young and very suddenly.

(WMP: Yes. He did.)

I bumped into ^{this lawyer} on the golf course back in those early days and he said how are things on the Fair Employment Practice Commission and I said fine. He said do you do anything else beside that? And I said I hope I ^{do} ~~do~~ because it doesn't pay anything. And he said he didn't realize that. Sometimes you get better known as a citizen than as

a lawyer.

(WMP: I think your law firm is known as the hardest working group in the city.)

We had a reputation for working hard, yes. There's no doubt about that.

You asked me what were the things in the charter that were of the greatest interest to me. And there were three things. One was the form of government. Whether to have a strong mayor against having a city manager. And I was on the committee that worked on that -- Tom Ringe was Chairman of it and Ralph Kelly and I were on that. And of course we supported having a strong mayor form of government. I was also interested in the establishment of the Human Relations Commission because that was going to be the successor to the Fair Employment Practice Commission that I was Chairman on. It was very ~~hard~~^{FINE} because ~~they~~^{WE} put a specific provision in there making it a constitutional body, so to speak, right in the City Charter to have this Human Relations Commission. And I was interested in civil service. I had done a lot of study on that. My recollection there was that the big thing that I had in mind which I championed, although I wasn't on that committee, was that the Personnel Director not be appointed by the mayor. And the Charter provided that ~~they~~^{we} be appointed by the Civil Service Commission. Of course the Civil Service Commission was appointed by the mayor. But you do have that insulation. And also, the Civil Service Commission had to be selected from a panel. There were presidents of the two universities and others that picked the Civil Service Commission. *LET'S SEE!*

The Civil Service panel, Section 3, 1001 -- President of Temple University, President of University of Pennsylvania, President of the Philadelphia Fellowship Commission, Chairman of the Board of Trustees of the Bureau of Municipal Research, the President of the Chamber of Commerce, the business manager of the Central Labor Union, and the president of the Philadelphia Industrial Union Council affiliated with the Congress of Industrial Organizations. So this was quite a panel.

You ask me what Mr. Schnader's main interests were -- Mr. Schnader was Chairman of the Drafting Committee and that committee wrote the whole Charter.

(WMP: Did you work on that with him?)

Yes. He was Chairman and the other two members were Abe Freedman and Bob McCracken and that committee met separately and Mr. Schnader asked Tom Ringe and me to meet with it. We weren't part of the committee and we had no vote or anything but at least we could join it and give it the benefit of any thoughts that we might have. So I attended most of the meetings of the Drafting Committee and had an opportunity to see it in action and it was a marvelous committee. I don't know how you could get people to be better qualified to do what they were doing. They were just a prize group. And they got the thing written.

I can't recall of any particular thing that Mr. Schnader was interested in more than any other in the Charter because he was interested in everything and it all came out in the drafting of the Charter. He had been Attorney General under Pinchot. He had written the Fiscal Code and Administrative Code for the State Government, all of which helped in the construction of the Philadelphia City Charter. Because he didn't think a skeleton charter would do the trick. Some thought we would have a skeleton constitution -- and let Council fill it in. Mr. Schnader thought we should write a good bit of the substance. But then he had that great background in the State Government.

Mr. Schnader was Chairman of the Uniform Laws Commission and that, along with some other organizations, took under its wing the Uniform Commercial Code. And there again they had people to draft the code but Mr. Schnader was the one that got it adopted. And he got it adopted in some 48 states in less than a year. People who have examined that later have just been astonished -- they just don't see how you get people to move like that.

And then at the age of 75 he became President of the State Bar Association and he came up with Project Constitution where he sponsored amendments to the state constitution. And they were promulgated and were just about enacted when, right at the threshold, he passed away in March of 1968.

Mr. Schnader got the Gold Medal of the American Bar Association for his many public services, including the Uniform Commercial Code, and that was several years before the Project Constitution. Bernie Segal got that too. I think we're the only office that had two get the Gold Medal. When we walk out, I'll show you their portraits that represent that. Okay?

(WMP: Good. I'd like to see that. I don't usually inject information myself...)

You go ahead! You and I go way back!!

(WMP: But I thought you'd like this...on account of Mr. Schnader. It's a story about him. Edward Hopkinson took great interest in the waters of the Delaware River Basin. And I started as the executive of the Delaware River Basin Advisory Committee. And the last thing that Hoppy did... I got Hopkinson to raise a good deal of money to promote the Compact that we had...to draft. And the last thing he did, he said, "Now, I'm not going to do anything more until I can get Mr. Schnader to give his approval". You know, Hoppy was a strong, big guy. And I went with him to see Mr. Schnader, and he was very pleased.)

That reminds me. There's one thing I did want to emphasize. and I was reminded of it by...Mr. Schnader was in another aspect of it that even I wasn't in on.

This enabling act, the act of 1949 that I mentioned earlier in the conversation...that ordered the Charter Commission not to get into certain areas...keep out of state-wide areas and not get into ~~them~~. For instance, we couldn't do anything that dealt with annexing or detaching territories. We couldn't do anything about the municipal tax ~~laws~~ ^{LIENS}. We couldn't do anything about the election laws. And we couldn't do anything about regulating public schools. That was excluded.

And I want to emphasize that, because some of the criticism of the Charter that I have read have been criticisms of the operation of the school district. And we had nothing to do with that. We have three entities in Philadelphia. We had the city of Philadelphia, which was the Charter; we had the county of Philadelphia which was consolidated with the city after the Charter was written; and we have the school district, which is a separate entity. And for the school district to have a charter like this, it took another enabling act, and another commission. And that commission had to decide whether the Board of Education should be elected, or appointed by the mayor. And they decided for mayor appointments. And that came along later, long after this was established. And I forget who was on that commission. ~~I think~~...Hap LaBrum was on it, I think.

(WMP: He was chairman of the board for a long time, wasn't he?)

I think he was. But Mr. Schnader was counsel for that commission!

(WMP: Was he?)

He was. He added his say about what should go into that.

Yes, that's true. He was appointed counsel to the commission writing the school district ~~commission~~ ^{CHARTER}. But I mention that because Wiegand...Harold Wiegand, in an article he wrote for the Inquirer in 1976, which I kept...he writes about the City Charter's aims unfulfilled twenty-five years later. And he talks about the... "the mayor's role has been extended beyond City Hall to the Board of Education", which he says has been made the mayor's creature through his appointive power...and so forth.

Well, that wasn't this Charter. That was a separate charter, a separate commission, and if you're going to talk about it, I think any criticism you want to make of that, you should make. But I don't think it should be confused with the Charter that we wrote in '51, in which we were ordered to keep out of the public schools! I don't think we can be criticized later because we didn't cover the public schools.

(WMP: No, I didn't know anybody had gotten them mixed up.)

I've seen that elsewhere, ~~but~~ ^{AND} I think it's a point worth emphasizing.

You asked if there were any controversial things on the work on the City Charter.

There were controversial things, but I can't remember them now. I did mention to you earlier the number of times we ~~did~~ ^{MET AS} the Charter Commission; although we divided, we never divided along party lines.

And one illustration of that is the form of government. Well, I was a Democrat, and very strong for the strong mayor form of government, as distinguished from the city manager.

Lew Stevens favored the city manager, but later on went along with us to have the strong mayor form of government. We went for a strong mayor form of government, which was settled that way because we felt that way, the people would know where the responsibility was and could vote accordingly.

And none of the mayor's appointments are subject to councilmanic approval, except the city solicitor. He is subject to councilmanic approval because he's also counsel to City Council.

And some people thought that making the mayor's role too strong would be dangerous. And to counteract that, we wrote

in the charter^a provision for recall, which provided the basis for recalling the mayor from office.

(WMP: It's never been used, has it?)

Well, they attempted to use it against Mayor Rizzo and the Supreme Court held the recall provision unconstitutional.

(WMP: Oh, that's right. I'd forgotten that.)

Of course, we didn't know that was going to happen back in 1951. We did have the other restriction, that the mayor should serve only two terms, but we thought we were doing *THAT IN* the ordinary course of business. The mayor was two terms then; they were just enacting the constitutional amendment, the federal one, limiting the president to two terms. We thought that was routine. The strong thing we thought, ~~was~~, *TO COPE WITH* a strong mayor, as far as taking care of that problem, was the recall provision.

Mr. Schnader, having written the Administrative Code and the Fiscal Code, he was strong for having the city controller be in on pre-auditing, as well as post-auditing. I think there was a quote in here...let me find that. Paul Wolkin will probably remember something about this and you can talk to him about it. I'm looking for the comment about this.

(WMP: Is Paul a lawyer? I wonder if we'll find him in the legal directory.)

(HMcM: We have his address.)

He's a very able lawyer.

(WMP: There was a woman, Lillian Wolkin...is that his sister?)

I don't know, Walter.

The charter provides in section 6-400 that the auditing department shall examine and approve or disapprove all requisitions submitted through the director of finance by any department. So that once an appropriation has been made...and the comment on that, the annotation is that the auditing department's approval of disbursement of requisitions is required to prevent the improper disbursement of city funds. The absence of screening at this stage, funds might be improperly disbursed and their recovery at a later date might be difficult and might involve considerable expense to the city.

The functions of the auditing department were not controversial with the commission, as I recall it. There were some outsiders, experts on fiscal matters, who took the position that the controller should be confined to post-audit, and not be on pre-audit.

(WMP: That's the way it was done, wasn't it?)

Well, we do have this pre-audit and you approve requisitions. And there's also provision for every three years for the auditing department itself to be subject to examination by outside accountants. And you might say that that was a controversial matter...how the auditing department should be set up. But it wasn't controversial, as I recall, with the commission, but between the commission and outsiders. And Mr. Schnader was the champion of the way the auditing department was set up here.

I can't recall any other controversial things...for the most part, almost 100%, the commission...we got along very, very well. Very little acrimony. And we had a good-tempered chairman in Mr. Garman, and a very good secretary in Lew Stevens, a fine, very interesting fellow.

Tom Ringe was great; he was a bulwark. And he was, I would say, champion of our mayor form of government. And I think I did mention to you that we went out to Cincinnati to talk to Charles Taft about whether to have a city manager or not. And he was of the view that Philadelphia was a little too big for a ceremonial mayor...that the mayor really had to be the operating head. And that's what we finally came up with in Philadelphia.

I think the last of your questions to me was whether I could give an appraisal after twenty-eight years as to the assets and demerits of the Charter.

I can't, Walter. I can't express an opinion on that because I have not been in government operations at all during all these years. So I'm not aware of the impact it's had and things the workers in the government find very helpful to them and what they find difficult to work with. I do know...I think there's been no real strong campaign to have the Charter changed. You don't hear of that. It's only been tried a couple of times and each time the voters refused to change it.

(WMP: That speaks for itself, doesn't it.)

Many years ago there was a question of whether we should change the provision which requires the mayor to resign before running for office...running for other offices. That was voted down by the voters. And then recently they voted down ^{A Proposed} ~~the~~ revision to let the mayor serve more than two successive terms.

But I say there are people who would have an idea. Len Moak, of course, he was director of Municipal Research when we were writing the Charter, and he helped the commission with its work. And then he operated twice as finance director in City Hall.

(WMP: He's still around; he lives in Chestnut Hill.)

Len Moak is right up there in Chestnut Hill. I think he could be very helpful to you on the way it's operated. The other is Ed Rothman, who is the director of the Pennsylvania Economy League. It was not too long ago when Council appointed a commission to look into whether the Charter should be amended or not. I think they got up a list of what you might say was "do's and don't's" that might be helpful. I think you would find Ed very helpful on the merits, but on that one, I would have to pass.

I think that's about all I have on it.

(WMP: Well Bob, you've been very helpful.)

One personal note, for what it's worth. I thought the Charter was not going to pass. I just didn't think the organizations were going to get the vote out. But you reminded me about the Citizens' Charter Committee and the campaign they put on to get the thing passed.

(WMP: It was all money from the business people. They put up the money to promote it. And we hired a couple of people who were professional promoters.)

Well, as I was saying, I knew about the Citizens' Charter Committee; I forgot about it until you reminded me of it. But at that time, I still thought it was going to...not pass. I was pessimistic. And on election night, I taught in the Wharton School at night out at Penn, in the Business Law Department. I taught commercial law on Tuesday nights. And I was driving home from class that night, driving out Lancaster Avenue...I live in Overbrook. And of course, that's at 36th and Woodland. And I turned the radio on and the voice on the radio said that the Charter had passed! The voters had approved it! And I did a U-turn on Lancaster Avenue...right down into town, and I went up to our headquarters, where I knew they were meeting. And I hadn't wanted to go there before; I didn't want to go with a lot of gloomy people. And we had a ball! Everybody was just celebrating this thing that had passed. This was a great day in Philadelphia, and you really felt you were part of Philadelphia's history. And it was great to be living with you people, I'll tell you.

(WMP: Well it's nice to review all that with you. You've done a great job of recall, Bob.)

I tried to. I just looked through the City Charter...and that brought back some memories to me.