

Transcript of Governor Ed Herschler
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Tape 1

This interview was conducted by John Hinckley, 1977.

HINCKLEY: Governor Herschler. You were in the legislature for 10 years. As a legislator, how did you regard the office of Governor?

HERSCHLER: Well, I always felt that the...of course, that there are two distinct .. three distinct branches of government and my feeling during the legislative period was my belief is that you should respect those branches of government. Many times during the time I was a legislator I thought that the balance of power of course had overwhelmingly shifted toward the executive branch. I was one of the ones I suppose was instrumental in attempting to strengthen the legislature. Not with the idea of detracting from the governor's prerogatives --I've always respected that area and I think you have to be ever vigilant as a governor so that you don't lose some of those prerogatives. I did not attempt during my term, I don't think, in the legislature to take away any of those prerogatives.

HINCKLEY: This perhaps suggests something that isn't true, but I just wondered if you recall the regard that the legislature has for the office -- does he think of it in this ceremonial role or as a chief legislator or how?

HERSCHLER: No I don't think...as least I don't think I did. I felt this was a very important role that the governor played in administering State Government realizing there are other matters -- ceremonial duties that you have to perform. I always felt we were here to do our job in the legislative field pointing a direction I suppose with perhaps your political philosophy but with the idea that the governor, actually in administering those laws, had the final word and that I didn't want to put any strings...in other words, I felt that if we enacted a law or we provided him with an appropriation that he then should have a free reign in doing that according to his own political philosophy and some of the directives perhaps that we had given him.

HINCKLEY: I wondered at times if perhaps the legislature didn't sometimes feel it ought to be the executive as well.

HERSCHLER: Yes, I think that did occur on many occasions and some of us would try to do that. I see that happen more and more as we go along every year. A typical example is in your appropriation bill where the legislature has now adopted the philosophy that should have footnotes to various appropriations as to how I can spend that money or I will be done. And, I might add that I have vetoed a number of those footnotes where they have in effect said "you will do a program but at the same time you must consult with the legislature or with a committee that has been established by the legislature to do these things" and I thought that those things were taking away some of my prerogatives...

HINCKLEY: This is a marvelous illustration of the benefits of line item veto of an appropriation bill which we don't have in the national constitution.

HERSCHLER: Well, of course -- here was an area in which we had adopted by, I suppose by rules and regulations, the Department of Environmental Quality -- what our standards, SO2 standards would be which we felt were very necessary to carry out the legislative intent in our environmental quality laws which I think are good ones. Of course, this created an atmosphere among some of the legislators that thought we were going too far and attempted to abrogate those rules and regulations and the rule-making authority. So, I think we were able to beat them down on that and hopefully we'll be able to continue to do so. We also have had a drive in the legislature and particularly in last legislative session to require that the executive branch submit all rules, proposed rules, for review by the management council of the legislative offices which to me...we've got some amendments in it, I think we can live with it but I'm watching it because I would say that if we get to that point where the legislative service office and the management council wants to take over that particular arena, then the only thing I'm going to do is test them in court because I don't think they have that constitutional authority to do that. I think that's something that's reserved for the executive branch.

HINCKLEY: Governor Herschler. You may suspect that I have researched your speech at the Taft Institute a little bit in preparation for my interview. At that celebration, you did describe the office and I wonder if you could do that for me for the students who will be...for the several roles that the governor plays.

HERSCHLER: Of course, we're charged in state government and by the constitution and by statutes to administer state government through the executive branch. There are a number of areas in which I have exclusive jurisdiction. There are however because of our constitution...we have many boards and commissions that are administered through the five elected officials. Typical example of course would be the Land Board which is a great situation although I liken it somewhat to the fact ...it would be somewhat difficult for our president for example to be president and then have a complete Republican cabinet which actually is what I have at this moment with four Republican office holders and myself. I'm not so sure I would want to change it even if I could because I think it's been working fairly well. I think we're all pretty reasonable people. We get along in most instances except when we get down to some political cutting and then of course, I have very little to say. It's primarily in the area of appointments to the various institutions. For example, I sit on the Board of Charities and Reform which conducts all the business of all the state institutions. If a director or institution head retires or resigns or dies, I have very little to say as to who will be the successor. As well as some of the key personnel in those areas. Be that as it may, I think we get along pretty well and so far in the state, I don't think the states' going to exist under that system. ?

HINCKLEY: What did you mean by your statement to the Taft Institute? I'm quoting you now. State government is less the watchdog of states' rights than the key

administrator of national government. Your reference there is of course to state government as well as the chief executive.

HERSCHLER: Well, I think John, what I meant by that, as you probably know we get a tremendous amount of federal funds coming into our state. Many people think those are free dollars, which of course they are not. What we do, instead of sitting here fighting for states' rights, which I do, but there are many areas in which we act in many capacities as administrator for federally funded programs. As a result, I think sometimes we become more a federal administrator rather than a person sitting here fighting for state sovereignty and states rights. And we do that because there are many, many programs we could not complete continue without federal funds. Any time we get federal funds there are always federal strings attached to them which are usually as the result of some law that's been passed that requires uniformity throughout the country. Of course, our problems in Wyoming are obviously much different than they may be in New York or Pennsylvania or someplace. We do have to comply with the uniformity as set up by federal regulation. We don't like it but if we accept the federal funds, we have to do it. This is what I was talking about in that but I do feel very strongly about maintaining the states' prerogatives but in many instances I find that I'm somewhat the administrator of federal programs.

HINCKLEY: The oath of office actually obliges you to some degree to execute federal law.

HERSCHLER: That's right.

HINCKLEY: I wonder. You're more involved than past governors, as least in my perception in the regional or more importantly, the National Conference of Governors. My question is – Might not the Conference of Governors –perhaps even the old west sort of thing become a better watchdog of states rights than individual state administrations?

HERSCHLER: I agree with that John, very much. I think that where you can get a group of governors that will band together and agree on things, we are much more effective by going to the federal level and saying, "This is what we all agree upon. We think it should be this way." Unfortunately, in many, many areas, when you get ten governors together, you can't get ten of them to agree on anything. On many of the basic issues, we have been able to agree and I think we've produced some results on the federal level. We're involved, about eleven of us that are involved in the Western Regional Governors Energy Policy Office and we think we've made some strides in some of those areas, particularly in federal land leasing and things of this kind which we're involved – most of all of the states have a great amount of federal land within our borders. I think the Department of Interior, particularly, have been listening to us. The Old West Regional Commission of which I'm a member and there are five of us in that group. We're a relatively new title 5 commission and we're just beginning, I think, to realize some of the effects of the unanimous agreement among us there. I think we work real well together – those five governors. But the problem we have with the Western Regional Governors Energy Policy Office is that it was originally designed to take care of mining, environmental concerns

and to a lesser degree, agriculture. We have had an agriculture group in it because we've taken in those governors from the Old West Regional Commission and at least three of those areas are more concerned with agriculture than they are with mining. But the problems we do have in that group is we have, as you indicated with eleven or twelve, many of the problems we have here do not apply to New Mexico or Arizona. And consequently on some issues, we can get all of us to stand firm and fast but in other areas, we may have five governors that have a problem that's common only to us and the other six or seven who are less interested and could care less.

HINCKLEY: Is the congressional delegation an instrument for that type of group to vie-
a-vie the federal government? Do you have any kind of regular liaison?

HERSCHLER: Yes, we do. Of course, our policy office and our Old West Regional Commission work directly with those senators, particularly from the Rocky Mountain West in trying to push our programs and we've had a pretty good reaction from them. The only problem is that when we get to the House of Representatives, we're greatly outnumbered. The representatives from New York and Pennsylvania have a completely different philosophy, generally speaking than we do. But we do have enough of a group of senators that we do have a little clout in that regard and they have been very cooperative and have helped considerably. Unfortunately, California has never joined in with us on any of our endeavors -- which may or may not be good. I wouldn't be anxious to have California into our group anyway. One of the things, we're doing now -- we're restructuring the Western office because there are many other organizations that are somewhat tied in--although not directly. The State does have to pay dues to belong to those. What we're trying to do is combine some of those. For example, we just abolished the Federation of Rocky Mountain States and got rid of it. We're trying to bring in the Western Nuclear Board into this and we're trying to bring some ag boards in where we'll have them under one roof and we think that we can save some money and get them under one roof so that they won't be going off...and we'll know -- the left hand will know what the right hand is doing.

HINCKLEY: The Federation of Rocky Mountain States -- was that the group that Governor Hathaway was a chairman? Another odd arrangement -- this was a quasi private/public arrangement?

HERSCHLER: Yes. I don't think we were getting very much accomplished with the Federation of Rocky Mountain States and I think all of the governors felt that way and the last chairman was Governor Rampton of Utah. He tried to restructure it in some ways and could not get the job done and his recommendation while he was president was that the organization be disbanded.

HINCKLEY: You mentioned Governor Rampton -- a little humor, a little vignette parenthetically in this. I think the last conversation I had with you was at Lovell during your campaign. Governor Rampton was the speaker and in the course of the question and answer..the question of the 55-mile speed limit came up. Do you recall that?

HERSCHLER: Yes sir.

HINCKLEY: You had some doubts about its usefulness in Wyoming and Governor Rampton said that if he had his way, they'd lower it down to 45. Have you had second thoughts on the 55-mile speed limit?

HERSCHLER: No, not really. I haven't. I wish that we could raise the limit – I think that 65 would be a reasonable speed because of the distances between our ...I'm not sure that we're saving that much energy. I think this may be symbolic...I think you can save just as much at 65 as you would at 55.

HINCKLEY: He was of the opinion it saved lives too.

HERSCHLER: Oh well. I think perhaps this is true in other states – they're saving lives in other states but I note that just today we past last year's fatality rate. We've been attempting to enforce the 55-mile an hour speed limit and it's certainly not helping us safety-wise in Wyoming.

HINCKLEY: We're just exactly where we were.

HERSCHLER: In fact, we're worse off than we were. Last year was a record and we're exceeding it right now.

HINCKLEY: Back to my sort of script, Governor. You have in part answered it...responded to it. I wonder if you could do it a little bit more directly -- your appointive power is severely curtailed by both the constitution and by statute as you have indicated. It would seem to me a bit unfair to hold the governorship responsible for all state government – the old “buck stops here” really isn't a legitimate description of the executive process in Wyoming.

HERSCHLER: No, it really isn't. There are a number of areas where I am able to make appointments. There are a number of commissions that I make appointments to the commission – the commission members. But they in turn are then authorized to make the appointment of the director for that position. For example, I'm able to appoint the members to the Employment and Securities Commission but they appoint the director. This is also the case in the Game and Fish Commission and the Highway Department I appoint the commissioners and they appoint the superintendent or the Game and Fish director. Then, of course, if he does things well, the Game and Fish Commission for example, gets the credit. If he has everyone in the state upset with him, I get the credit. Sometimes it isn't fair. But on the other hand, I have so many appointments. This is one of the worst jobs I have. First of all, my personal philosophy is that I like to appoint the best person I can get for a job and very often, I'm not able to because the person is not interested or I'm not aware...I know a lot of people in Wyoming, but I don't know 'em all. Consequently, I might have been able to have gotten a better person for a particular job but he or she might have expressed interest in it and it's difficult to round people of for these jobs. Another facet in which I'm involved which limits my appointive ability is

the fact that there are many boards and commissions that I have to make appointments to that require a political split. In other words, if a seven –man commission...the statute sometimes says that not more than four can be from the same political party. In addition to that, there are many board, commissions and appointments that must be approved by senate confirmation, which certainly is all right, but ...we are severely restricted, or I am on some of my appointive powers.

HINCKLEY: A more direct question – you again have suggested that you would perhaps not make significant constitutional changes, but my question was what changes in both constitution or statutory appointive powers would you like to see? In your point of view as governor?

HERSCHLER: In many cases, I really feel that the governor who was elected by the people should have the authority to make most of the appointments perhaps still maintaining the power of confirmation by the senate in the important appointments. On the other hand, many of the areas, the other commissions and boards I appoint then that appoint directors, I find that in some instances I can't work with that individual. Either by virtue of the fact there's a personality clash or a difference in political philosophy and things of this kind. I do not even have the power of removal, which makes it difficult. It creates some very definite problems. For instance, which way is this department going to go? Whether they are going to try to follow my philosophy or they are anti-administration. We're not able to work closely together. We're not able to get our budget put together in such a way...sometimes there's a lack of communication that creates some very severe problems. As a result, I think the state suffers.

HINCKLEY: And of course it is that individual with whom you have constant contact whereas you don't with the commission so even just a personality would be a factor.

HERSCHLER: That's true. I also find that in many cases some of my commission appointments and board appointments are politically motivated because the person comes in and says "Well, I've been a member of your party for years and I work for you and I really want to be...I want to you know that I will work closely with you. He comes in as a politician and he's on the board and he immediately becomes a statesman...he pays no more attention to me...tells me to go fly a kite!

HINCKLEY: I want to try this on you though. If you were rewriting the constitution...would you retain the five executive elected officials or a single cabinet type of integrated hierarchy?

HERSCHLER: I would prefer...I think that there are a couple of areas in which I would certainly go along with...I frankly feel that the state treasurer, for example, should be free and independent of the governor. I think that perhaps the office of secretary of state, which the duties there are pretty much ministerial, could very well be handled on an appointed basis. I think that perhaps the state superintendent of public instruction should perhaps be appointed rather than elected. I think the state auditor, of course, performs a very vital function and should be a part of the executive branch ...I think they should

continue to be elected. I think, perhaps you might eliminate two constitutional offices but keep the other two.

HINCKLEY: Perhaps saving in both money as well as making it perhaps more efficient and of course more responsible.

HERSCHLER: I think so.

HINCKLEY: Which leads me to the most relevant question –there are two...you may not agree with my question or with statement preceding it. Instead of trying to rewrite our state constitution through the laborious process of amendment – we have had over 80 proposals so far - why not do as virtually all other older states have done is to call a constitutional convention?

HERSCHLER: Well – many people call our constitution very archaic and out of date. I frankly don't look at it that way. I think our constitution with some changes in governmental reorganization such as I have indicated before might be helpful. I personally hope that if there is a constitutional convention, it will occur after I'm out of office.

HINCKLEY: What a marvelous civics lesson that would be!

HERSCHLER: I suppose it would be. I'm not sure I need that experience. I had a number of discussions with my neighbor to the north, Governor Judge –they had a constitutional convention in Montana. I think it could get very political and I think it could create some problems we may not want in the State of Wyoming. He said that they had some very difficult times and I'm not so sure that our constitution should be easily amended because I think that you can get pressure groups that can change the whole philosophy of our state if you could amend the constitution easily.

HINCKLEY: Is it fair to state that the resistance to constitutional change comes as much from the interest groups who anticipate or foresee some threat to their position in the pecking order?

HERSCHLER: I think it does and I think that the people who become involved in some grand scheme to amend a portion the constitution sometimes are easily swayed. They're not familiar with the facts of the situation or what could happen if it were changed. I think we have a good constitution – a couple of things I don't particularly like but I'm sure we can live with. I think our state has gotten along pretty well and I'd hate to see the constitution of our state dramatically changed. I think the people that wrote it were pretty good people and had a lot of common sense, some of them did.

HINCKLEY: Hopefully, this generation has a comparable amount.

HERSCHLER: I have great faith in people, John, I really do. I hope that I never get to the position where I don't realize that I don't work for the people; they're not working for

me. I never want that to occur. If I do, I want 'em to throw me out of here but I do have great faith in people. What does concern me is that sometimes we get zealots with causes who want to make dramatic changes that are not that familiar with the workings of state government and what the people actually want.

HINCKLEY: Studying the constitution just objectively, you're stricken with many contradictions that may not be that important but one that always comes up in my own address is the difficulty say if we were to rewrite our constitution of dealing with the clause which claims all of Wyoming water law and that which forswears all claim to public lands within the border. We can't have it both ways in a new constitution.

HERSCHLER: I agree with you. There are conflicting errors.

HINCKLEY: Many would like to take that latter out.

HERSCHLER: Well, I'm not so sure....yes, I think I would.

HINCKLEY: But certainly not the former.

HERSCHLER; No, I don't. To me, Wyoming water is the lifeblood of Wyoming in this arid country.

HINCKLEY: In this water context, if I could just introduce this. One of my later questions invited you to speak what you foresaw as issues, problems that would be of interests very likely to future generations of students. What can we anticipate as occupying news for instance...I'm thinking of the Mendicino case or the state case in the third water district?

HERSCHLER: Well, I think there are of number of areas now, John. As a matter of fact, we're working right now....apparently President Carter is about to announce about the first of November a new water policy for the United States. Apparently this matter is something of a crash program. They are going to have a hearing in Denver on the 28th or 29th of this month to get input, I suppose, if you want to use this term. It would seem to me that there is an indication that the federal government wants to assert greater role in water in the United States which particularly frightens me because our water I think should be administered in the statewide basis because we do have compacts between states on some of our streams but when we get into the local areas – our tributaries and things of this kind – I think this should be administered through state government. We find an encroachment more and more coming along. For example, the dredge and fill regulation is the 404 regulations of the Corps of Engineers, which they are attempting to exert jurisdiction over the use of our water and the streams and I'm doing all I can to resist.....

HINCKLEY: Well, you challenged that in court didn't you?

HERSCHLER: Yes, I have. There is a court suit pending which we have not resolved. We're also concerned in the area, for example, of the waters that are now being claimed by many of the Indians within our state, which if they are granted those rights will, I think, just emasculate our water laws because if the federal courts permit them to do as they please with the water, we're going to lose all the priorities that are set by our water laws, the adjudication of those water rights. This of course was the basis of this suit that's been filed in water district number 4 was to try to get those water rights determined by state courts rather than federal courts.

HINCKLEY: Do you find it even conceivable that a national agency, in this case, say the Supreme Court, could rule in such a way to eliminate all of the existing water appropriations of such a vast area? To me, it's almost inconceivable. In case of the constitution following current times rather than black letter law.

HERSCHLER: Well, I think this is true. It would be inconceivable to me that the Supreme Court would say that the water appropriation that had been made on a tributary, for example, should be administered by a federal agency of some kind or that they could change those rights because I think many of that is based contractually. Perhaps there is many, many court cases that would not permit them to do it. But where we do have problems are on the allocations that we have for example in our compacts such as the Colorado River compact where we are now becoming involved because of international agreements between the United States and Mexico.

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Tape 2

This interview was conducted by John Hinckley, 1977.

HERSCHLER: ...that we were going to try to take their water rights away from them. At the same time, we had to be, we thought at that point in time, very secretive about it because we know that there are people, if they had been apprised of what we were doing or contemplated doing, it would have been a race to the courthouse door, either federal court or state court and we wanted to get the suit filed in state court before they got it filed in federal court. Fortunately, that's what happened. Then the Justice Department attempted to get the case removed to the federal courts and fortunately the federal judge here said, "No, it'll stay in state court." Because we were hoping that this matter could all be determined and these water rights by clarified by virtue of the McCarran Act by a state judge and we think we're going to be successful in that. But, it's going to be such a long and complicated matter that, as you indicated John, I'm sure that a decision will not be rendered until long after I'm out of office and another attorney general.

HINCKLEY: I'm out of context again on the matter of executive office. The question is can you enforce your executive order regarding acceptance of federal programs on the other four state elective officers. I'm referring to the recent executive order requiring your approval of the acceptance of federal funding.

HERSCHLER: I think I can. I think that perhaps the other four officers, if they elect to do so, may tell me that they are an elected official and that I have nothing to do with their particular bailiwick. But I also have another area in which I have had some assurance from the regional offices that unless the approval comes from my office, they will not approve it at the federal level. So, I think I'm in fairly decent shape.

HINCKLEY: What about the University and the community colleges?

HERSCHLER: What I would like to do, John, and I'm not going to be arbitrary capricious with the acceptance of federal funds by the University or by community colleges. But what I am interested in is making those people provide information as to what the particular federal funding is and how long it will continue and what will happen if we get hooked onto a program when the federal program are eliminated. And I want them to be able to explain to me in good honest terms as to what's going to happen if that occurs. As you know, we have many federal programs particularly in the health, education and welfare and the health and social services department which were originally funded for a five-year period and they were reduced each year and as a consequence our state budget -- the general fund budget -- had to increase correspondingly to meet those programs because by and large, they are good programs. But on the other hands, when you get one of these programs, you have to put on

additional personnel to administer them and you also have to realize that when the five year period or whatever period it is terminates, whether we're going to continue them -- if we take the position we're not going to continue them, then we think the department ought to know that before they get us hooked on. I really feel -- I don't think it's an unreasonable request to have even the departments -- the community colleges or the University to say, "Yes, we're going to get these funds and this is the program we're going to use it...historically those funds have been available for years and years and we expect it to continue." That's fine. But what I'm more concerned about than anything are the new programs that many of us are getting into which are brought about by some federal bureaucracy that's trying to start a new program and I think it's only fair to the people that they have an idea of what's going on and why.

HINCKLEY: I think that's very reasonable. I was just wondering if this was a jurisdictional matter from the standpoint of a political science class. For instance, certainly those agencies whose heads you appoint, you could certainly require them to get your approval before they act whereas in the case of the University or the community college it would be more of an advisory rather than a mandated....

HERSCHLER: To some extent, John. On the other hand, the University of Wyoming receives a substantial amount of their funds out of the general fund appropriations, which are realized from tax revenues that the people all pay. To some extent, the community colleges are in that situation. They get funding at the local district level but they also come in and get a substantial general fund appropriation. So, I think that this may be helpful. Since I've been in this office, we have attempted to get a closer relationship between the University for example and the community colleges. Not with the idea of diminishing the community colleges' powers, authorities and prerogatives. Because I'm sure that if that were the case and the University zeroed in on Northwest Community College it would probably gobble them up so to speak and I don't want to do that. But I also think there are areas in which there are great deal of duplication and one area in particular is the computer system. Unfortunately, we have one community college using Burroughs and one IBM and one National. It would seem to me that if we were all on the same type of a machine, for example, we could have a spare parts program somewhere where we wouldn't be buying parts for Burroughs and parts for IBM and having a lot of them sitting there in a bin waiting for something to happen. I think we could save a considerable amount of money that might very well be used in the computer program rather than in buying hardware.

HINCKLEY: You have a commission now advising you on that.

HERSCHLER: Yes, I do have.

HINCKLEY: Which would suggest another question. I wouldn't want to leave this completely at the moment but the question is the tendency to proliferate agencies -- this is the most common wonderment that I encounter when describing Wyoming government is the startling number of boards, agencies and commissions. The last time I counted I think there were about 110 or 115.

HERSCHLER: I think there's are more than that.

HINCKLEY: And yet, virtually every administration has some reorganization. If I'm wrong, say so. Why have reorganization proposals been relative failures in the past?

HERSCHLER: I can't answer that question for you. I think many of the programs that are suggested by the legislative executive reorganization committee -- the interim commissions. I think in many instances, when these people come on board and they make their investigations and they make their studies. I think they genuinely feel they have found something that would be beneficial to the state. Unfortunately, the rest of the legislators, in many cases, are not that deeply involved and consequently do not pay a whole lot of attention to their interim study committees. And I think there's been a lot of money spent that's probably been wasted because the only people that are vitally interested are the committee members themselves and they have good things sometimes to promote and the other legislators won't go along with them.

HINCKLEY: I think it would be interesting if you could briefly say how you feel about the governor's role in the lawmaking, legislative process and how you yourself go about influencing the legislature to do those things that you as chief executive feel must be done.

HERSCHLER: John, first of all, I think I was very fortunate in having spent 10 years in the legislature. I think not only knowing the legislative process to some degree but secondly, becoming acquainted and becoming friends with many of the individuals who are now leaders in the legislature who I served with and we are good friends I think on both sides of the aisle. You know who the people are that are still there who have -- I don't say understanding, but have ability that you can rely upon and you know when they tell you "Yes, I will support your program" that they will do that. Or, you know those who will say "Yes, I'd love to but..." you know that you may not be able to rely on them -- you know those people from past experience. And I think it's definitely the role of the governor to have a legislative program that hopefully is reasonable and you can present in your state-of-the-state message and at the same time be able to follow the legislation and make sure where it is and if it seems to be bogged down somewhere where you can go to some committee chairman or someone you can rely on and say "I would sure like to get that out on the floor to be debated." And you have to do a lot of lobbying if you're interested in your program. It seems to me that I have a duty to myself and to the state to provide a program, which I think, might be beneficial to the state and do what you can to get that statutorily enacted. By the same token, I found out a long time ago that there's the matter of compromise as to you're probably never going to get a bill exactly as you have written it or you'd want. But you have to compromise in some instances, which I do if it doesn't, in my opinion, compromise my principals.

HINCKLEY: Your state-of-the-state message, effectively, is your legislative agenda. The voters can assume that. Is the political party help or a hindrance in this process?

HERSCHLER: I have found John probably in my experience in the legislature...this is just a rough guess...that 90 % of the legislation is not political. Of course, there is 10% that is political. Most of that is used for window dressing I think in many instances. The political party doesn't hurt, I think it helps because your own party that is there with you, those member of the legislature generally speaking are very loyal to you for your party, primarily. Secondly, being a member of my party I believe that I somewhat follow the philosophy of my party. So, of course, my legislative programs are sometimes quite oriented to the philosophy of my party. Sometimes you know that you're not going to get those bills enacted because they are so political particularly if the other party is controlling both houses. So then you look at areas that perhaps you can compromise a bill and literally get your foot in the door so that two years from now or a year from now when your next session comes along you can get that bill amended more to your liking.

HINCKLEY: Would there be in your situation where you have a divided administration and of course the majority control in the other party would there be some hesitancy on your part to make perceptible use of the Democratic Party lest you offend the majority?

HERSCHLER: No, not really John. I made use of the people that were in my party very much so and I don't say "made use of them" -I worked very closely with them. You know every individual that comes to the legislature, regardless of the party, always has some legislative program of his own and you know about that if you're awake, I suppose. There's a lot of horse-trading in the legislature that you indicate to one of your colleagues in the other party "I know you're very interested in this piece of legislation. I'm also interested in this piece of legislation. The two of us together, we might be able to get this accomplished." And it works.

HINCKLEY: I was thinking of a party caucus. Another of those roles that the governor, the chief of state, is he's head of his party. And we accept that generally. So in the political party role, you could quite comfortably, in effect, call the democrats into caucus, which you couldn't very well, do that to the leadership of the legislature.

HERSCHLER: Well, you see in the legislative session, both parties always caucus at least once a week and then if something comes along that...particularly at the end of the session - which seems to be important they caucus more frequently. But let me tell you this, when I go to a party caucus, they don't always all agree with me either. This is sometimes the area that you're able to get advice from party leaders or legislators from other parts of the state or other areas that perhaps I'm not as familiar with as I am in my own home county. They tell me "if this piece of legislation is enacted in this form, I'm going to be dead when I get home because this absolutely just won't work back in my area." So, you make adjustments there and I have never taken a position that I have to ram something down someone's throat in my own party. Except once in awhile -- on one or two occasions in areas where I felt the interest of the state would override that particular concern of maybe an individual and I attempt to point it out to them.

HINCKLEY: You mentioned earlier the pressure from various interest groups...do you encounter as governor significant lobbying pressure or is that primarily addressed to the legislature?

HERSCHLER: No, there's a lot of pressure applied both to the legislature and to the executive branch I think. Some of the lobbying is very beneficial because some of the lobbyists are able to give you insight on bills and the ramifications of things that perhaps an individual never thinks about. Even in my office where I have people that are able to do research for me sometimes completely overlook something and that's very helpful. But by the same token, I do know that if I have a program, I have had people come in -- special interest groups -- and not only do they lobby, they threaten. My position is "I'm sorry but my feeling is that the program I have is for the best interest of the state in my judgment and I cannot go along with you" and I don't mind telling them.

HINCKLEY: I think one of the most delightful expressions was your comment on the threat to move the truck stop. "Don't forget to write."

HERSCHLER: Yes.

HINCKLEY: Your forthrightness was very refreshing! Do you get a lot of pressure on the slurry pipeline as governor?

HERSCHLER: I did for a while but I think that the people who now are very much in favor of the slurry pipeline know my feelings on it and they are ignoring me now, those people. I'm not opposed to the slurry pipeline, per say, because I think environmentally, it would be very fine. I think it would be a good way to move coal. But once again, I'm worried about the water situation and at this point, we do not have sufficient knowledge about the Madison formation where they expect to take this water. You can use any figure that you want to on the number of acre-feet in the Madison formation and no one can dispute you. We haven't it tested sufficiently to know what the recharge of the aquifer might be or what the drawn down would be...what effect that might have on existing wells and existing water rights in the state. I, frankly when you talk about 15-20,000 acre-feet of water it seems to me that considering we're in a relatively arid state, it would just be folly to send that water to Arkansas.

HINCKLEY: What about public opinion generally? Do you get a significant amount of mail from the general public?

HERSCHLER: Yes, I do.

HINCKLEY: Do people write to their governor? They write to their congressman...

HERSCHLER: Yes, they write to me. I get a tremendous amount of mail. Some good mail and some that's very critical of me. I attempt to answer all those letters. In many instances, people write me letters that they can't understand why we're doing something and very often, I've written to people and explained my position, what has happened and

why the action was necessary. I get replies back saying “I’m glad you wrote to me. I feel better about it. I may not agree with you but I still thank you for the letter and I know a little bit more about the situation.” I think the people are entitled to know and I do my very best to answer. Not only the people who are out in the civilian life. I have quite a group of pen pals that I correspond with regularly over at the penitentiary. I think sometimes that’s helpful maybe to dispel some unrest sometimes over there. Maybe it’s helpful. Write to their friends and parents and girlfriends.

HINCKLEY: You’re the commanding officer...

HERSCHLER: Somewhat.

HINCKLEY: A few more policy questions if we might. The most controversial probably of all policies in Wyoming is severance tax. In retrospect, ought Wyoming not have established a mineral trust fund based on a severance tax many, many years ago?

HERSCHLER: Yes, I think so. My feeling is that should have been established many years ago and we are building up our mineral trust fund, our permanent funds. And, we are taxing part of the revenues from severance tax go into the general fund. The situation now is I’m getting a lot of criticism from a number of people who say that I’m not taxing enough or requesting enough taxes from the mineral trust area. I may be wrong but I feel that at the moment that taxes are about at the level that they should be. Unless of course, if we extend the severance tax or increase it that we look to the reduction of other taxes. My philosophy in that area is that I don’t like to be taxing just to simply to be taxing because I’ve always found that if you have extra money, you’re going to spend it. And frankly I do know that I have some people around the state that say I’m oblivious to some of the demands of the people programs. But I’m also well aware that with the legislature that I have now, if we had additional funds, they wouldn’t be spent for people programs anyway. They’d be spent for something else because I can’t direct that legislature to appropriate to those people programs.

HINCKLEY: That anticipates the next question that had to do with the general tax structure in Wyoming. Would you describe Wyoming’s tax structure as fair and equitable?

HERSCHLER: I think it is at this point. As I indicated, I personally would like to see some of the taxes reduced if we increase the severance tax such as the sales tax. I personally feel that the sales tax is a regressive tax and I’d like to replace that part of it at least with the severance tax. But I also know that if I increase the severance tax, or try to, I’m not going to get the sales tax reduced. And we’ll get more money in and we’ll be spending more money and in areas that I don’t think with the present legislative status that we have will go to the areas in need and we may be padding some of the areas that are already getting more money than they deserve now.

HINCKLEY: This would be back in the ___? policy. Do you, Wyoming rancher and governor, have any misgivings over the preferred use status under Wyoming - of what our law –presently enjoyed by Wyoming industry?

HERSCHLER: Yes, it does concern me. Frankly, perhaps not right at the moment but looking down the road into the next century, we're going to have to be very protective of agricultural water. At the same time, we have to make sure that the municipalities receive their fair share. I don't...we hear a lot of this "well, take the water from agriculture and give it to industry because when the coal is mined well then they'll give it back to us." You know that isn't going to work because industry is going to find some other use for it or they're going to sell it to some poor dirt farmer that isn't going to be able to afford it. So, I am concerned about this.

HINCKLEY: This derived from Kansas state...one of our native sons... Ole' Ed's ranch will be nothing but a summer pasture.

HERSCHLER: Well, that might be.

HINCKLEY: That was the origin to it. What do you hope to be more remembered for as Wyoming governor?

HERSCHLER: I really haven't thought about that?

HINCKLEY : Protector of states' rights?

HERSCHLER: Well, I would hope they would be able to say that -- that I've tried to preserve our states' rights. I never really thought about it John. I try to do the best I can. I suppose, with my limited ability, I'd hope that they'd say someday "Ed Herschler was an honest man and that nobody pushed him around." Maybe that's it.

HINCKLEY: What about young people? Do you have any advice you'd like to leave for several thousand students who will hear at least parts of our interview concerning the political process, citizenship involvement?

HERSCHLER: I think that the best advice I suppose I could give to a young person is to be honest with himself and to be honest with those who he deals with and to do the best he can so that when he gets through with the job he can say "Well, I've don't the best that I can" and he can look himself in the mirror and say "I have no regrets."

HINCKLEY: One of the great concerns I've noted in reading the speeches and statements by the other three governors I've interviewed is the stress over the youth out-migration from the state. This seemed to be one of the primary goals of Hathaway was to stop that and what a governor can do about it except to create a climate.....

HERSCHLER: I'm very pleased with that John, because I think maybe that trend has changed now that our youth now are able to find the positions and jobs and other things

that they won't have to leave our state. This is one of those things I am happy about because I think that trend has changed. I think that there are a lot of young people now who feel that we do have a pretty decent state in which to live --that they don't have to go to California and I think that maybe some of the younger people are more appreciative now of our environment, of our clean air and our clean water. But at the same time, I know that there are a number of people who do not want industry here but I do feel that industry is coming. It will provide things for us and for our young people. It will create...it will hurt some of our way of life that we've known many, many years in our state. So, that's the reason why I'm hoping I can maintain our environmental laws and at the same time, knowing that industry is coming...to have a healthy balance. I'm trying to walk down a fine line between either pro-industry or pro-environment but I do say that I'm trying to hopefully protect the environment.

HINCKLEY: Your statement I think is that "industry will come to Wyoming, but it will come to Wyoming on our terms."

HERSCHLER: That's what I'm hoping John.

HINCKLEY: When you change roles this office, what's the best thing that you like about the office and the least?

HERSCHLER: You couldn't have this job if you didn't like people and you have to have patience. We change it all the time..for example we had a meeting this morning that lasted more than I anticipated because we're involved in a matter of this distribution of \$3.2 million....